

FIRST AMENDMENT

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UNIVERSITY OF CALIFORNIA

ENVIRONMENTAL IMPACT REPORT

for the

GREENLINE/URBAN GROWTH BOUNDARY

CITY OF SAN JOSE
SPHERE OF INFLUENCE



SCH #97122060

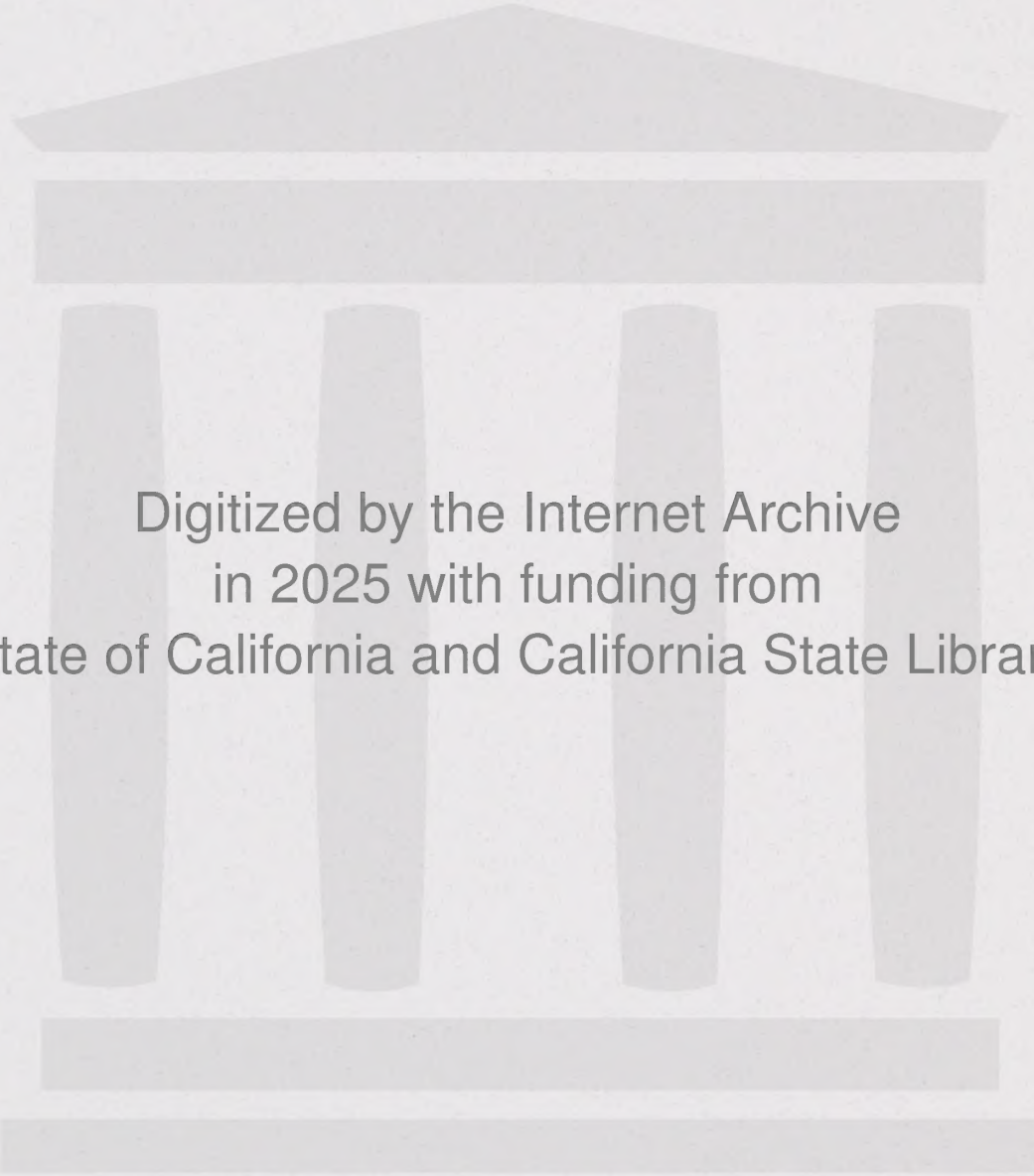
Prepared by the

City of San Jose

and

Santa Clara County

August 1998



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I. LIST OF AGENCIES AND INDIVIDUALS RECEIVING COPIES OF THE DRAFT EIR

Copies of the Draft EIR were sent to the following:

Federal Agencies

Environmental Protection Agency
U.S. Fish and Wildlife Service

State Agencies

Caltrans District 4
Office of Planning and Research State Clearinghouse
Bay Area Air Quality Management District
San Francisco Bay Regional Water Quality Control Board

Regional Agencies

Metropolitan Transportation Commission
Santa Clara Valley Water District
Santa Clara County Open Space Authority
Santa Clara Valley Transportation Authority

County Agencies

Santa Clara County Planning Department
Santa Clara County Department of Roads and Airports
Santa Clara County Department of Parks and Recreation

Local Agencies

Evergreen Branch Library
San Jose City Main Library

Organizations and Individuals

Sierra Club Loma Prieta Chapter
Audubon Society
Native Plant Society
Evergreen Resource Conservation District
Joanna Callenbach, YCS Investments
Youngsville Holdings, Inc.
Youngsville Develop., Inc.
Edenvale Holdings, Inc.

Renee L. Robin, Sheppard, Mullin, Richter, Hampton
Joseph E. Petrillo, Sheppard, Mullin, Richter, Hampton
Burnell E. Richmond, Trustee Et. Al., EN Richmond Trustee
John Messina
Committee for Green Foothills
Jim Lord
Greenbelt Alliance
Michael Van Every
Lee Shahinian
Sandy Blair
Pratt & Whitney (U.T.C.)
Paul Ireland

II. LIST OF AGENCIES AND INDIVIDUALS COMMENTING ON THE DRAFT EIR

Comment letters have been received from the following agencies and individuals. Complete copies of the letters themselves are included in this amendment, in Section V.

State Agencies

California Department of Fish and Game

Regional Agencies

Santa Clara Valley Transportation Authority
Santa Clara Valley Water District

County Agencies

Santa Clara County Department of Roads and Airports

Organizations

Guadalupe-Coyote Resource Conservation District
Greenbelt Alliance
Home Builders of Northern California
Sierra Club Loma Prieta Chapter
Pacific Gas and Electric Company

Individuals

Lowell Grattan
Sheppard, Mullin, Richter & Hampton

Included with this letter were letters from the following:

Gerrit Knaap Associates
John D. Landis
Smith Engineering & Management
Mundie & Associates

III. REVISIONS TO THE TEXT OF THE DRAFT EIR

The following revisions are hereby made to the text of the *Draft Environmental Impact Report for the Greenline/Urban Growth Boundary City of San Jose Sphere of Influence*, dated May 1998. Deletions are shown with a ~~strikeout through the letters~~; additions are shown underlined.

Page 52 Section II.D. Flooding, Drainage and Water Quality; Existing Setting; Flood Hazards; the fourth paragraph on the page should be revised as shown:

Several flood control projects are planned or are currently under construction in the San Jose area. The Lower Silver Creek flood control project, between Coyote Creek and McKee Road, is ~~designated for construction in 1998~~ awaiting completion of the application for permits; construction is several years in the future. The Guadalupe River channel improvements, between I-880 and I-280, are scheduled for completion after 2000. Flood control improvements on Berryessa Creek, between Calaveras Boulevard and Old Piedmont Road, ~~will be completed by the summer of 1998~~ is in the planning phase with the U.S. Army Corps of Engineers (COE). Flood control improvements along Guadalupe River between I-280 and Blossom Hill Road and along Ross Creek ~~are currently being planned~~ is in the final stages of planning; the Water District is preparing a Final EIR on the project, The SCVWD recently circulated an EIR for improvements to the Guadalupe River upstream of I-280, but the improvements addressed in that EIR are not presently funded, and their implementation is not scheduled. In addition, flood control improvements are currently being planned with the COE for Upper Penitencia Creek, and A planned Coyote Creek flood control improvement project (between Montague Expressway and I-280) has been shelved for the present time.

Page 53 Stormwater Quality, Fifth paragraph on the page, change the first sentence as shown:

The City of San Jose is a participant in the Santa Clara Valley ~~Nonpoint Source~~ Urban Runoff Pollution Control Prevention Program and a co-permittee in the Program's NPDES permit for municipal stormwater discharges, issued by the RWQCB.

Page 95 Section II.H.1. Transportation Existing Setting; Transit System, the following should be added after the first sentence of the second paragraph:

VTA operates 74 bus routes (approximately 55 lines within San Jose) covering nearly 2,500 miles of roadway and over 4,600 stops with a total

active fleet of ~~more than 450~~ 470 vehicles. VTA plans to increase the bus fleet from 470 to 600 in 10 years.

The last paragraph on the page should be modified so that the last sentence in the paragraph is modified and followed as shown:

...off-peak periods and weekends. Construction is currently underway for an extension along Tasman Drive into the ~~City~~ cities of Sunnyvale and Mountain View. The VTA plans to double the light rail system to 42 miles by the year 2004.

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Section II.H.2. Transportation Impacts; Existing Congestion; Intersections, add the following to the third and fourth sentences in the existing paragraph:

...are calculated. Notable congestion exists on several county expressways-- Almaden, San Tomas, Montague, Capitol and Lawrence Expressways all have multiple intersections at LOS E and F. Arterial streets with several problem intersections include Brokaw Road, Alum Rock Avenue, Winchester Boulevard, Trimble Road, First Street, Bascom Avenue, Leigh Avenue, Meridian Avenue, and Lincoln Avenue.

Section II.H.2. Transportation Impacts; Existing Congestion; Intersections, the following should be added after the first and only paragraph in this section:

The levels of service listed in the following table were identified by Smith Engineering as based on the Congestion Management Program for Santa Clara County:

TABLE 4(b): Deficient Existing Conditions At Congestion	
<u>Location</u>	<u>Existing LOS</u>
<u>Alum Rock Ave.-Capitol Ave.</u>	<u>E</u>
<u>Alum Rock Ave.-Jackson Ave.</u>	<u>E</u>
<u>Brokaw Road-First Street</u>	<u>E</u>
<u>Capitol Expressway-Aborn Street</u>	<u>E</u>
<u>Capitol Expressway-McLaughlin Avenue</u>	<u>E</u>
<u>Capitol Expressway-Quimby Road</u>	<u>E</u>
<u>Capitol Expressway-Senter Road</u>	<u>E</u>
<u>Capitol Expressway-Silver Creek Road</u>	<u>E</u>
<u>Capitol Expressway-Tully Road</u>	<u>E</u>
<u>I-280 Ramps-Saratoga Avenue-South</u>	<u>E</u>
<u>Lawrence Expressway-Saratoga Ave.</u>	<u>E</u>
<u>Montague Expressway-First Street</u>	<u>F</u>
<u>Montague Expressway-Trimble Road</u>	<u>F</u>
<u>Montague Expressway-Zanker Road</u>	<u>E</u>
<u>Trimble Road-De La Cruz Boulevard</u>	<u>F</u>
<u>Trimble Road-First Street</u>	<u>E</u>

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Section II.H.2. Transportation Impacts; after the second paragraph on the page, add the following new section:

...conditions are anticipated to be.

Methodology

The City of San Jose currently uses the computerized traffic model, TRANPLAN, to forecast the traffic conditions of the adopted General Plan and to evaluate proposed land use changes. TRANPLAN models the P.M. peak hour traffic circulation on the Year 2010 roadway network with traffic generated by land uses designated on the General Plan Land Use/Transportation Diagram for the Year 2010. This application of the TRANPLAN model was used for the Environmental Impact Report and

environmental review for adopting the *San Jose 2020 General Plan*, and has been used to evaluate subsequent amendments to the 2020 General Plan.

The TRANPLAN methodology is different than the intersection LOS methodology normally used for assessing the project specific traffic impacts of individual development projects. For individual projects, the traffic analysis focuses on impacts on surrounding roadways and intersections, with mitigation measures recommended where traffic congestion would increase above identified thresholds. By contrast, the TRANPLAN analysis uses more general, systemwide parameters, recognizing that subsequent project-specific traffic analyses will be conducted prior to site development.

The TRANPLAN model encompasses all of the City's sphere of influence as well as the remainder of Santa Clara County, the rest of the Bay region, Santa Cruz County and San Benito County. The modeled street system within the City and immediately adjacent to it includes facilities shown on the General Plan Land Use/Transportation Diagram. Moving away from the City's sphere of influence, the network becomes more skeletal, including only freeways, expressways and some major arterials. External to the County, the network includes freeways and selected facilities linking freeways. The modeled transportation system also reflects certain planned but still unfunded transportation improvements.

Page 107 Table 5: Peak-Hour Vehicle Miles Traveled in 2010, the nineteenth row of the table should be revised as shown:

Planning Area	Freeways	Expressways	Streets	Total
Rest of County	16,102.3 738,263.1	0.0 175,972	0.0 640,849.9	16,102.3 1,555,085

Page 108 Table 6: Peak-Hour Vehicle Hours Traveled in 2010, the nineteenth row should be revised as shown:

Planning Area	Freeways	Expressways	Streets	Total
Rest of County	1,955.2 17,687.6	0.0 4,605.1	0.0 21,229.2	1,955.2 43,521.9

Table 7: Peak-Hour Derived Average Speeds in 2010, the nineteenth row should be revised as shown:

Planning Area	Freeways	Expressways	Streets	Total
Rest of County	8.2 41.7	N.A. 38.2	N.A. 30.2	8.2 35.7

Section II.H.3. Transportation Mitigation Measures, the last paragraph on the page should be modified as shown:

No mitigation is required to reduce impacts of adopting the UGB, because the UGB will not cause significant transportation impacts. The City of San Jose and the Valley Transportation Authority believe that adoption of the UGB, to the extent that such adoption encourages a more compact form of development, will help make transit more successful in Santa Clara County. Conformance with General Plan goals and policies and with the provisions of the County Congestion Management Plan will reduce cumulatively significant traffic impacts to a less than significant level.

Section IV.2. Secondary Impacts; Increased Demand for Development Outside San Jose's Sphere of Influence, the last item on the list at the top of the page should be revised as shown:

- (g) Approval of a General Plan Amendment during any annual review which allows non-residential lands within the USA to be converted to residential uses ~~if approved by LAFCO.~~

Section V. Alternatives to the Proposed Project; D. No Minor Modifications of the UGB; revise the conclusion paragraph at the end of the section as shown:

Conclusion: By eliminating the possibility of such minor modifications taking place, this alternative would result in a reduced likelihood of environmental impacts from associated development occurring prior to a General Plan update. This alternative would ~~not result in any additional a~~ reduced likelihood of environmental impacts or benefits occurring as a result of the small amount of development that could occur with these minor modifications. This alternative would be compatible with project objectives, but may not be fully in conformance with General Plan policies allowing development below the 15% slope line.

Section V.(E). Easements in the Greenbelt, the first paragraph should be modified as shown:

In this alternative, the City or other Agency would seek open space easements for those properties that make up the Greenbelt on the edge of the

urban envelope. The most likely method for obtaining the easements would be to buy them. ~~No source of funding for such an action is identified, The Santa Clara County Open Space Authority was formed to buy land and easements along the edge of the urban envelope to protect the greenbelt. Legal challenges have prevented the Authority from implementing their mandate for several years. although~~ The avoided expense in not having to plan for capital expenditures associated with infrastructure expansion, including expansion of the WPCP, sanitary sewer system, storm water collection system, etc., could also provide some opportunity for creative financing. The financing method is not, however, an environmental issue and does not need to be addressed or resolved in this EIR.

Page 171 Easements in the Greenbelt; the Conclusions paragraph should be revised as shown:

Conclusions: Dedication of open space easements in the Greenbelt would be as effective as the proposed project in protecting the Greenbelt from development, and would have no more environmental impacts. To the extent that such easements would preclude all development and the impacts of such development while the existing land use designations, even with the UGB, allow some limited development, this alternative may be environmentally superior. The availability of funding to implement the purchase of easements is still uncertain. A transition from a UGB-based planning approach to protecting the Greenbelt, into an easement-based system could, however, occur at some time in the future. This alternative would also be compatible with project objectives. ~~However, at this time there is no identified source of funding that would purchase such easements, which may make this alternative economically infeasible.~~

IV. RESPONSES TO COMMENTS ON THE DRAFT EIR

Although the number of comment letters received on this DEIR was not large, the volume of comments was unusually high. Many of the comments were about the same issues, primarily questions as to what physical impacts would result from the project and how the future growth projections were developed, and disagreements about how to calculate future housing demand within the San Jose Sphere of Influence. There are also a number of comments that identify the UGB as a constraint to growth. Since San Jose has amended its USA in the past, it would undoubtedly continue to do so in the future but only if the UGB is not adopted.

This section of the First Amendment to the Draft EIR contains two sections: first is a discussion that addresses the issues most commonly raised in the comment letters, providing additional clarification as to how the EIR analysis was prepared and the meaning of its conclusions; and second, individual responses are provided to each of the comment letters received.

A. OVERVIEW OF COMMON ISSUES RAISED IN COMMENT LETTERS

1. What direct adverse environmental impacts were attributed to the project, and why?

An issue that was raised in the lawsuit filed against the environmental review first done for the UGB, in the responses to the Notice of Preparation, and in the letter from Sheppard, Mullin, the attorneys representing the Richmond/Young Ranch commenting on this DEIR, revolves around whether or not the UGB/Greenline will have direct significant adverse environmental impacts. The DEIR states repeatedly that the City and County believe that it will not have such impacts. Some of the comment letters disagree, stating that the letter writers believe that the UGB will cause additional development.

As they are currently worded, the documents that will implement the UGB policy do not authorize any new development within the Sphere of Influence of the City of San Jose. The geographic location of the proposed UGB generally coincides with the existing Urban Service Area boundary (USA), which sets an existing limit on urbanization. The UGB is explicitly intended to encourage infill development, but it does not change any land use designations to increase development potential within the urban areas, and it does not relax any of the policies that require mitigation for impacts from infill development. The UGB does not, therefore, explicitly authorize any new development whatsoever, does not allow any development within the San Jose urban area that is not already allowed, and does not lower the environmental standards for development that does occur. The City and County, therefore, believe that adoption of the UGB will not directly cause significant adverse environmental impacts as a result of already planned development occurring within the existing urban area.

In order for new infill development to occur without conforming to existing policies (such as levels of service for traffic and infrastructure impacts), it must be assumed that those policies would be changed. A proposed change in environmental policies of the City and County General Plans would require separate public review and preparation of subsequent or additional environmental documents under existing CEQA requirements.

It is suggested repeatedly in the comment letters that adoption of a UGB by San Jose will cause development to occur at outlying locations, especially in other counties. The comments suggest that this is unavoidable and would be a direct result of the UGB adoption. There are a great many comments about the holding capacity of San Jose's General Plan, about the need for housing in the region, and about how the number of dwelling units allowed by the General Plan should be established.

Since the City and County General Plans cannot possibly permit or entitle development in other counties, it is unreasonable to argue that any such development would be a direct impact of any action which the City and County might take. The DEIR does, however, address the potential for induced or secondary impacts to occur out-of-county as a result of adoption of the UGB.

As discussed in the DEIR and in the discussion below, San Jose believes that the General Plan provides for enough dwelling units to meet the demands for housing through the year 2010, and possibly through 2020. There may be differences between the type of housing most desired (*i.e.*, single family detached on large lots *vs.* multi-family or attached housing) and the housing available in the price range of some buyers. There are a number of possible scenarios that could occur if the discrepancy is significant. For example:

(1) *Most* of the potential home buyers could buy something other than their ideal dwelling unit within Santa Clara County. [Much of the new housing being built in Santa Clara County is small-lot single family (including zero-lot line, cluster, and "duette" type housing); townhouses, condominiums, and apartments.] A small number of potential home buyers that are employed in Santa Clara County could also seek to purchase large lot single family homes in their desired price range outside of Santa Clara County.

(2) *Many* of the potential home buyers could buy something other than their ideal dwelling unit within Santa Clara County. At the same time, government agencies outside Santa Clara County could allow the development of significant quantities of large lot single family housing, which a large number of potential home buyers employed in Santa Clara County could purchase.

(3) Government agencies outside Santa Clara County could adopt growth boundaries of their own, or restrict the development of large lot single family housing. *Either* potential home buyers employed in Santa Clara County would then purchase something other than their ideal dwelling unit within Santa Clara County, or they could seek employment elsewhere, *or* employers in Santa Clara County would locate elsewhere because of a shortage of employees.

To the extent that adopting an urban growth boundary and encouraging infill development is an action that is taken by other government agencies as well as San Jose and Santa Clara County, option (3) above is more likely to occur. There is an increasing emphasis on growth boundaries and infill development with a variety of housing types, especially in the Bay Area. Language has been added to the EIR in **Section IV. Revisions to the Text of the Draft EIR**, reflecting the growth boundaries adopted by Bay Area cities. In addition to these

existing policies, the City of Milpitas, which is adjacent to San Jose, has placed an urban growth boundary on the ballot.

The City believes that there is more than one set of circumstances which could follow adoption of a UGB. As described in Section IV of the DEIR, the phenomenon of exported housing demand causing employees in Santa Clara County (not just San Jose) to buy homes outside the County has been well established for over two decades, without the existence of a UGB. The phenomenon does not occur because there is a shortage of housing in San Jose, which has a jobs/housing imbalance in which there is a surplus of housing compared to jobs. There are a variety of factors involved, including the willingness of commuters to drive long distances to obtain a particular type of housing (usually large lot single family houses) at a particular cost, and the permitting of development of that type of housing by other jurisdictions. The existence of these factors is discussed in the DEIR, as is the inability of the City and County to control them.

As clearly stated on page 158 of the DEIR, the City and County do not believe that adoption of the UGB would cause significant housing development outside of San Jose's Sphere of Influence.

2. The Adequacy of the Housing Supply Within San Jose's Sphere of Influence

There are a number of standards that could be used to judge the "adequacy" of a housing supply. As an extreme example, providing a single family house on a large lot that is affordable to every family in the County might be considered adequate, but is probably not practical. As stated in the DEIR, most communities set limits on the amount of housing that can be built within their jurisdictions, in order to assure that all of the housing that is built can be adequately provided with municipal services and to avoid sensitive habitats, earthquake faults, etc.. In addition, State law requires that a city's General Plan identify enough housing capacity to meet the city's fair share of the region's housing need.

The State Department of Housing and Community Development (HCD) indicated in a letter dated March 31, 1995 that the housing element of the *San Jose 2020 General Plan* "...continues to meet the requirements of State housing element law." The housing element is that portion of the General Plan that describes what the City will do to meet its fair share of the region's housing need. The State believes that City's General Plan will accommodate the City's fair share of the region's housing need. The housing element will be updated in the year 2000 as required by State law. If the housing element review at that time indicates that San Jose's planned housing supply needs to be increased, the City Council could require an update of the General Plan to address that issue. Under the current General Plan, the City will certainly provide more than enough housing opportunities to meet its fair share of regional housing needs until the year 2000 and probably until the year 2010. Furthermore, it is likely that the General Plan will undergo a major update sometime between those years (if not during the housing element update) and the City can adjust its housing supply at that time if necessary.

Since the adoption of the *San Jose 2020 General Plan* in 1994, the City has added about 3,700 dwelling units to its estimated residential holding capacity for a projected total increase in the City's housing supply of about 56,600 between 1994 and sometime

between 2010 and 2020. This increase was the result of General Plan amendments that converted non-residential lands to residential use or that increased the density of existing planned residential lands on infill sites within the existing USA, including the Intensification Corridors. The analyses for all of these changes had to show that the proposed changes would be consistent with the General Plan's LOS policies as well as CEQA. This shows that the General Plan is not static and that the City can and will provide housing opportunities where these opportunities are consistent with the growth management policies of the Plan and with CEQA. The City believes that these incremental additions to the planned housing supply will continue and that this shows that the City's infill strategy is an effective method of increasing the City's housing supply. The fact that the City is willing to entertain and approve General Plan amendments to increase the planned housing supply should clearly indicate the City's commitment to provide adequate housing.

Planning for "enough" housing involves a certain amount of forecasting, in that planners are trying to identify future needs based on past and present trends. Not only is the number of units important, but the type and location of residential development must reflect the availability of land, market conditions, and the community's goals and policies.

If the City determines in later years that additional housing is needed to meet the goals of the General Plan, there are a number of options available for increasing housing supply, as described on pages 30 and 31 of the DEIR. Some of the comments received say that level of service (LOS) policies in the General Plan would severely restrict new infill development or conversion of non-residential land to residential uses. Although it is true that there are LOS limitations in San Jose, particularly traffic LOS constraints, the existence and severity of these situations are dependent on the location and type of housing proposed. For example, housing in North San Jose, (*i.e.*, within a major employment center) could improve traffic, or at least not make it worse. Additional housing opportunities along light rail lines could also be found as these facilities are built. Increased use of transit by people living in adjacent units could minimize traffic impacts.

Beyond additional infill development, the City could develop 2,000 units in the 1,050 acre South Almaden Valley Urban Reserve, and perhaps between 20,000 to 25,000 units in the Coyote Valley Urban Reserve. Urban development of the South Almaden Valley Urban Reserve is anticipated in the General Plan and could occur prior to 2020. Urban development of the Coyote Valley Urban Reserve is not anticipated prior to 2020, but the General Plan does indicate that this area will eventually be urbanized – thus the term Urban Reserve. This identifies the City's preferred direction for new urban growth, once infill development has run its course: toward the flatlands of the Urban Reserves, which will be easier to develop with less environmental damage than the lands outside the proposed UGB, which are primarily environmentally sensitive hillsides or baylands.

The point is that the General Plan identifies enough land within the UGB (*i.e.*, within the USA and Urban Reserves) to accommodate any additional housing the City might need above and beyond the 52,900 dwelling units currently identified in the Plan.

3. Differences Between ABAG and City General Plan Assumptions About Housing Demand

There were several comments made about differences between the Association of Bay Area Governments (ABAG) projections of housing need in San Jose through 2020, and the estimates in the City's General Plan. The difference is used as the basis for claiming that the number of dwelling units projected and accommodated by the General Plan is inadequate and, as a result, the UGB will cause housing to be built outside the City's Sphere of Influence.

It should be noted in this context that this perceived difference is between ABAG projections and the existing holding capacity of the General Plan, not the capacity of the UGB, since the limit is a result of the existing land use designations in the General Plan.

ABAG's projections are most accurate at the regional level and are best used as a regional planning tool. ABAG distributes its regional jobs and housing projections at the county and then the city level as their best estimate of how much growth will occur where. The accuracy of each distribution diminishes as it moves from the regional to the local level. Therefore, ABAG's long term local projections are relatively broad estimates and can vary widely over time as they are refined. For example, in *Projections '92*, ABAG estimated that 62,854 households would be added in San Jose between 1995 and 2010. In *Projections '98*, the number of new households estimated by ABAG for the same time period was 51,360, a difference of about 11,500.

Given the limitations on the accuracy of ABAG's projections at the local level, the City of San Jose modified those projections to better fit the conditions and land use policies of the City of San Jose. Clearly the City has a better understanding of its policy limitations and goals, and of the capacity of local infrastructure, than a regional agency. San Jose's housing supply (or residential holding capacity) of 52,900 dwelling units described in the San Jose 2020 General Plan is based on the following:

- The amount of new housing (52,900) proposed in the *San Jose 2020 General Plan* is based on a vision the City wishes to create for its future, which includes a better jobs/housing balance. This balance is important since, as explained in the General Plan, it directly affects the City's ability to provide urban services to its residents and businesses. San Jose provides the majority of housing, especially affordable housing, in Santa Clara County. San Jose houses over 52% of the County's population but only contains 38% of the County's jobs. This means the City's jobs/housing balance (*i.e.*, jobs/employed resident) is very poor. (San Jose's jobs/employed resident ratio was 0.78 in 1992. A healthy or balanced jobs/employed resident ratio would be 1.0.) One of the chief goals of the *San Jose 2020 General Plan* is to improve this imbalance. The 52,900 dwelling unit holding capacity meets this goal, in that it would modestly improve the ratio from 0.78 to at least 0.82. (It should be noted that the City has more than enough existing housing [277,284 units as of July 1997] and planned housing [47,400 units as of July 1997] to meet the needs generated by the number of jobs the City is likely to accommodate within its boundaries by the year 2020 [444,000 jobs are projected by 2020; assuming 1.63 employed residents per

household, 272,392 dwelling units would be needed to house San Jose's working population in 2020].)

- Besides improving its jobs/housing balance, the City wished to ensure that its Traffic Level of Service (LOS) and other LOS policies are maintained. This means that planned new housing had to be carefully located to reduce traffic impacts that could create significant deviation from the City's traffic LOS policy. The City recognizes that some sections of roadways have LOS levels worse than "D" and is attempting to minimize the number of these conditions, while maintaining the City's overall average LOS "D" standard. This does not mean that additional housing cannot be planned for if the need arises but that any additional planned housing development must also meet this same LOS goal.
- Given the difficulties in creating housing projections for the 25 year period between 1995 and 2020, the *San Jose 2020 General Plan* estimated that the 52,900 units planned for could be built by a point in time sometime between 2010 and 2020, depending on the state of the economy and the actual demand generated for new housing. The DEIR notes that the General Plan's 52,900 housing supply number is very close to the 51,360 households estimated in ABAG's *Projections '98* for 2010. Given the vagaries of long term housing projections, particularly in terms of economic fluctuations, the City believes the housing supply proposed in the *San Jose 2020 General Plan* is roughly consistent with ABAG projections and is adequate to meet the City's needs.

B. RESPONSES TO INDIVIDUAL COMMENT LETTERS

This section of this Amendment responds to each comment letter received on the Draft EIR. The format followed below is that each comment from each letter is reproduced, followed by a response to that individual comment. Complete copies of each letter are also included in this Amendment, in Section V.

1. RESPONSES TO COMMENTS RECEIVED FROM THE CALIFORNIA DEPARTMENT OF FISH AND GAME, DATED JUNE 17, 1998

COMMENT: Department of Fish and Game personnel have reviewed the DEIR for the Greenline/Urban Growth Boundary for the City of San Jose and Santa Clara County project. The project identifies the limit for expansion of urban services and urban development within the City of San Jose. We have the following comments.

According to the DEIR, this project, implementation of a proposed Urban Growth Boundary (UGB), would not have deleterious impacts to sensitive biotic resources beyond those allowed under the existing San Jose and Santa Clara County General Plans. On Page 87 of the DEIR, it is stated that anticipated cumulative significant impacts to resources would be mitigated or avoided by adherence to the goals and policies of the City's General Plan. These goals and policies are, for the most part, presented as very general recommendations and have no apparent means of enforcement. Because it cannot be guaranteed that the policies will be upheld for specific projects, it cannot be assumed that they will provide adequate avoidance or mitigation for impacts.

RESPONSE: The General Plan is a policy document. Although it delineates those areas generally considered suitable for development within San Jose's Sphere of Influence, it does not include any specific development. The policies for mitigating or avoiding impacts to sensitive biological resources are the same level of detail, and represent the same level of commitment, as the development allowed by the Plan. Future development proposed for property under the jurisdiction of either the City or County will be subject to subsequent, project-specific CEQA review, in conformance with State law.

COMMENT: While we do believe that impacts to biotic resources could be reduced by providing a line around urban growth in the San Jose area, several of the presented alternatives would apparently have fewer impacts than the preferred alternative. Alternatives A1 (No Development Scenario), B (Smaller Area Inside the Urban Growth Boundary), and E (Easements in the Greenbelt) would appear to be environmentally superior to the preferred alternative. Alternative B is presented with the Coyote Valley Urban Reserve, the non-urban hillside portions of the Silver Creek Planned Residential Community, and the Edenvale Redevelopment Area excluded from the UGB. We suggest that this alternative be considered and that consideration be given to also excluding the South Almaden Valley Urban Reserve and more extensive areas of the Silver Creek and Edenvale sites, as well as any other sites currently outside of urban development.

RESPONSE: The recommendations of the Department are hereby acknowledged and included in the environmental record.

COMMENT: We request that subsequent documents related to this project be submitted to this Department for our review. If you have any questions regarding these comments, please contact Ms. Martha Schauss, Associate Wildlife Biologist, at (4U) 623-4989; or Mr. Carl Wilcox, Environmental Services Supervisor, at (707) 944-5525.

RESPONSE: The request is acknowledged.

2. RESPONSES TO COMMENTS RECEIVED FROM THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY DATED JUNE 24, 1998

COMMENT: Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR for an amendment to the San Jose 2020 General Plan which would establish a Greenline/Urban Growth Boundary (UGB) for San Jose. The UGB would identify the ultimate limit for expansion of urban services and expansion of urban development within the City. We have the following comments.

Transit Benefits of Urban Growth Boundary

VTA strongly supports the UGB. The City of San Jose's expected population increase of 20% within the next decade will lead to even higher levels of traffic congestion. As traffic worsens the community will look to VTA to provide effective transportation solutions. Plans to expand the light rail system have been developed. However, the success or failure of transit will be determined, in large part, by what happens around major transit stops. The UGB helps to stimulate the type of compact, higher density developments needed to make transit successful.

VTA has been involved in ongoing efforts to encourage the City to focus growth around transit. The UGB helps to ensure that a significant portion of future housing and employment is located along existing and planned transit lines. In addition, it influences the intensity of development to achieve a level which reflects the availability of moderate to high capacity transit.

RESPONSE: A statement reflecting VTA's opinion, as the transit service provider for the County, that the UGB and a more compact form of development will make transit more successful, is included in **Section IV. Revisions to the Text of the Draft EIR.**

COMMENT: Transit System Description

The following minor changes should be made to the Transit System Description on pages 95 and 96:

- On page 95, a sentence should be added to the second paragraph to mention plans to increase the bus fleet from 470 to 600 in 10 years.

RESPONSE: The information on the bus fleet is included in **Section IV. Revisions to the Text of the Draft EIR.**

COMMENT: • On page 96, the last sentence in the first paragraph (which starts on page 95) should be corrected to state that light rail will be extended to downtown Mountain View. This paragraph should also mention that there are plans to double the light rail system to 42 miles by the year 2004.

RESPONSE: The information on the light rail system is included in **Section IV. Revisions to the Text of the Draft EIR.**

3. RESPONSES TO COMMENTS RECEIVED FROM THE SANTA CLARA VALLEY WATER DISTRICT DATED JULY 1, 1998

COMMENT: Santa Clara Valley Water District (District) staff have reviewed the Draft Environmental Impact Report (DEIR) for the subject project. The District understands that this project relates to policy rather than any specific development plan; therefore, we have few comments. We are also aware that these comments are being transmitted after the public review period.

1. In general, we find the goals of the Greenline/Urban Growth Boundary to be worthy and to serve our mutual constituents well. In particular, preservation of open space is a cost effective means of contributing to flood protection.

RESPONSE: This comment is acknowledged and included in the environmental record.

COMMENT: 2. We note that numerous existing General Plan Policies cited within the sections Soil and Geologic Hazards (page 49), Earthquakes (page 50), Storm Drainage and Flood Control (page 57), Flooding Hazards (page 57), and Water Resources (pages 57 and 58), will result in benefits both to the District and to the City of San Jose (City). We appreciate policies, such as Natural Resources Policy I regarding the regulation of development within watershed areas, which demonstrate the attitude of cooperation of the City with the District.

RESPONSE: This comment is acknowledged and included in the environmental record.

COMMENT: 3. It should be noted that the Santa Clara Valley Nonpoint Source Pollution Control Program is now known as the Santa Clara Valley Urban Runoff Pollution Prevention Program.

RESPONSE: The reference has been corrected in **Section III. Revisions to the Text of the Draft EIR**, in this document.

COMMENT: 4. Although not specifically germane to the Urban Growth Boundary project, the following are clarifications to the status of the flood control projects that appear on page 52:

- a. The Lower Silver Creek project is awaiting completion of the application for permits. Construction is several years in the future;
- b. The Berryessa Creek project is in the planning phase with the U.S. Army Corps of Engineers (COE).
- c. The Guadalupe River project upstream of Interstate 280 is in the final stages of planning. We are now responding to comments on the Environmental Impact Report:
- d. The Upper Penitencia project is in the planning phase with the COE; and
- e. The Coyote Creek project between Montague and Interstate 280 has been shelved.

RESPONSE: This updated information has been included in **Section III. Revisions to the Text of the Draft EIR**, in this document.

4. RESPONSES TO COMMENTS RECEIVED FROM COUNTY DEPARTMENT OF ROADS AND AIRPORTS DATED JUNE 8, 1998

COMMENT: We have reviewed the DEIR submitted with your May 15, 1998 letter for the subject project. Our comments are as follows:

1. Figure 6A, "Existing PM Peak Hour Traffic Volumes", page 100: The traffic analysis may only require PM peak analysis; however, on most County expressways, the AM peak hour traffic volumes are as congested as in the PM. At some locations, the intersection delay is in the AM peak hour. Therefore, the traffic report should also analyze the impacts on the AM peak hour.

RESPONSE: In evaluating General Plan amendments, the City is attempting to predict traffic impacts compared to capacity over a long period of time. The General Plan horizon is 2010 to 2020, as stated in the DEIR. The methodology which the City uses to evaluate long term transportation planning capacity is TRANPLAN, a computer model. The identified worst case in terms of traffic demand on the overall system is the PM peak hour, which is the case modeled in TRANPLAN. While there may be localized situations within the overall system where AM peak hour congestion is as bad or almost as bad as PM peak hour congestion, the PM peak is recognized throughout Santa Clara County as the most congested period. The TRANPLAN

model is the best tool available to the City for evaluating long term capacity of the entire system.

COMMENT: 2. "Critical Corridors", page 103. Lawrence, San Tomas, and Montague be included in the critical corridors and analyzed accordingly.

RESPONSE: The DEIR identifies "critical corridors" as travel pathways which "connect the many diverse planning areas that comprise the City". The critical corridors that are described in the DEIR are corridors of travel which service major activity centers in San Jose and whose capacity is limited by physical features. Both Lawrence Expressway and San Tomas Expressway are important travel corridors for the County that primarily serve areas outside the City of San Jose. They travel through small segments of San Jose, but do not serve as elements of principal travel corridors connecting different planning areas of San Jose. Montague Expressway is part of the Tasman Corridor, as defined on page 104.

COMMENT: 3. "Transportation Impact - Thresholds of Significance", page 105: The Congestion Management Agency (CMA) requirement, which requires developments that increase the delay at Congestion Management Program (CUP) intersections by 1.5% or by 4 seconds or more to prepare a traffic impact report including mitigation, should be included in the systemwide thresholds.

RESPONSE: The CMP methodology is used to determine conformance with the Countywide CMP for proposed development projects. A Transportation Impact Analysis (TIA) is not required by the CMP for General Plan amendments.

COMMENT: 4. "General Plan Conditions", page 106; County expressways should be analyzed by using County and CMA standards which include trip generation and traffic projections as provided by the Center for Urban Analysis (CAU).

RESPONSE: This comment appears to be based on a misunderstanding. There is no development proposed. The "project" analyzed by the EIR is a proposal to reinforce existing policies in the City and County General Plans which restrict the amount and location of growth which can occur within San Jose's Sphere of Influence. There is no new development proposed to which trip generation and traffic projections could be applied. For the cumulative (General Plan) case, the City of San Jose does not rely on County or CMA projections for the land use planning purposes, in conformance with CMP requirements.

COMMENT: 5. Table 7, "Peak-Hour Average Speeds in 2010", page 109: The San Jose Sphere speed for expressways is too high. Our studies show that existing expressway average speed during peak-hours ranges between 20 and 25 MPH.

RESPONSE: This comment is apparently referring to studies of existing conditions. The information in Table 7 is based on model-derived projections of conditions which are predicted to exist in 2010.

COMMENT: 6. Table 8, "Screenline Volume to Capacity Ratios in 2010", page 111; Only Montague Expressway is listed in the table. Other affected expressways should be listed as well.

RESPONSE: Table 8 does not list individual roadway facilities. As described in the text on page 109 of the DEIR, the screenlines listed in Table 8 each comprise several facilities. A "screenline" usually consists of several parallel facilities whose capacity is finite and can be compared to demand, to identify a "level of service". Montague Expressway, for example, is a component of screenlines 1, 3, 4, 21 and 28. To the extent that other expressways are also components of major travel corridors which are in some way limited by physical barriers, they are also represented by screenlines.

COMMENT: 7. Page 112, first paragraph, "The implementation of the existing City and County"; This paragraph indicates the adoption of the UGB will not cause significant impacts to the transportation system any more than the implementation of the existing City and County General Plans. We disagree with this conclusion for the following reasons:

- a. The traffic report does not include any traffic impact analysis to support this conclusion, i.e., intersection and segment LOS calculations. In order to review the traffic impacts on County expressways, the traffic report should include, a traffic impact analysis and the proposed mitigation measures.

RESPONSE: As stated previously, there is no development proposed at this time. The DEIR evaluates the likely impacts of reinforcing the existing City and County policies which restrict the location of development within the San Jose Sphere of Influence. No additional development is proposed, allowed, entitled or identified.

COMMENT: b. The UGB will add more traffic above and beyond the City and County General Plans and therefore will increase traffic delay.

RESPONSE: No basis is given for this statement, which may be based on a misunderstanding. It cannot be ascertained what action or development this comment is assuming will "add more traffic". There is no development proposed. The "project" analyzed by the EIR is a proposal to reinforce existing policies in the City and County General Plans which restrict the amount and location of growth which can occur within San Jose's Sphere of Influence.

COMMENT: 8. Appendix D, "Intersections", page 27; Montague Expressway should be included in the list of expressways which have multiple intersections at LOS D or below.

RESPONSE: The information is acknowledged and hereby included in the environmental record.

COMMENT: 9. Appendix D, "Existing Intersection Level of Service" map, page 28; Only two intersections are shown on Montague Expressway with LOS E or F and one intersection with LOS D. All CMP intersections on Montague have LOS D or below, with most intersections having LOS E or F. This is also true on most expressway intersections that are not shown on this map.

RESPONSE: The *1997 Congestion Management Program for Santa Clara County* which was last revised on May 7, 1998, shows two CMP intersections on Montague Expressway in

San Jose as LOS F in 1996: Montague/First and Montague/Zanker. The intersection of Montague/First was shown as LOS E in 1994/95. LOS E is considered an acceptable operating level of service for CMP facilities.

COMMENT: 10. Appendix D, "Conclusion", page 40; We disagree with this conclusion - see item 7 above.

RESPONSE: The conclusion in Appendix D is based on the findings of the model run and the assumptions which are documented in the analysis. This comment, including item #7, does not identify why the commentor believes that adoption of an Urban Growth Boundary will generate more traffic. No basis is given for such a conclusion. It is assumed that the comment is based on a misunderstanding of the project evaluated in the EIR.

5. RESPONSES TO COMMENTS RECEIVED FROM THE GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT DATED JUNE 15, 1998

COMMENT: Thank you for the opportunity to comment on the DEIR Greenline/Urban Growth Boundary, May 1998. Although the DEIR mentioned the fishery resources that exist in county streams, the information on water temperature was incorrect. The Guadalupe River and Coyote Creek and their tributaries are cold water streams. You have incorrectly stated that warm water is the most common state in these streams. Steelhead and chinook salmon spawn in Coyote Creek and the Guadalupe River. Los Gatos Creek can support Chinook and steelhead. Steelhead are a Federally protected species.

RESPONSE: This comment is apparently referring to a statement on page 76 of the DEIR, which says that the "Fish found in perennial streams in San Jose are primarily warm-water species." This is an accurate statement. The same paragraph also states that ocean-going species such as steelhead and chinook salmon have been reported in Coyote Creek and the lower reaches of the Guadalupe River. There is no statement in the DEIR that the Coyote and Guadalupe are warm water streams.

COMMENT: The DEIR Greenline/Urban Growth Boundary includes vast amounts of land. To accommodate this large scope, we feel it is necessary to include methods of scientific analysis that will be used to determine cumulative and other impacts to listed species. Do you intend to support your conclusions with scientific data concerning listed species in the EIR? This is especially important in areas that are undeveloped, such as the Coyote Valley Urban Reserve and the South Almaden Urban Reserve. There are serpentine soil species along with other protected species in these areas. There are wetlands in the Coyote Valley Urban Reserve. One of the goals (City of San Jose, Policy R-LU c.) of the city is to preserve surrounding hillside lands, viewshed areas, and natural resources in non-urban and open space uses. Natural resources cannot be preserved if habitat is eliminated. We would like to see a scientific study of biological resources in both of these Urban Reserves. Limiting factors are especially important for protected species. Will you be discussing limiting factors for listed species in your EIR?

RESPONSE: The EIR does not propose any specific development in the urban reserves at this time. The location of the UGB does encompass the urban reserves because the City

assumes they will develop in the future. Prior to any development occurring in the urban reserves, or at any other location within the City's Sphere of Influence, project-specific environmental analyses will be done. In conformance with General Plan policies and State law, the analysis for any property which is considered potentially sensitive habitat, will include appropriate biological studies to determine the presence or absence of special status species. The DEIR identifies the likelihood that both urban reserve areas contain sensitive habitat and (on page 86) finds that the development contemplated by the existing General Plan could have cumulatively significant impacts on special status species in those areas.

COMMENT: Corridors and "stepping stone" habitats for various species are necessary for their survival. Please discuss these habitats in the EIR. Water quality and temperatures are important for fish survival. Please discuss in detail development impacts to fish habitat, serpentine soil species, oak woodlands and riparian corridors.

RESPONSE: The DEIR concludes that the project, which is adoption of an urban growth boundary, will not itself cause any impacts to habitat. Future development allowed by the General Plan will be required to prepare project-specific CEQA documentation that identifies in detail impacts to all sensitive species.

6. RESPONSES TO COMMENTS RECEIVED FROM THE GREENBELT ALLIANCE, DATED JUNE 18, 1998

COMMENT: Greenbelt Alliance was pleased to review the Draft EIR on the San Jose Greenline/Urban Growth Boundary. It was a very well written document which correctly portrayed the lack of any significant impacts or impacts which could be mitigated. We have the following two comments:

1. We concur with the secondary impact analysis regarding infill development within the USA that the Greenline will only potentially have an impact on the timing when infill development occurs, but otherwise simply serves to carry out San Jose's vision for its growth and development as described in the current San Jose General Plan. San Jose's new growth will be predominately infill development and that is not only appropriate from an environmental perspective, it is also the most fiscally conservative approach to growth which will assure more cost effective city services. Infill development is essential to achieve more viable and balanced communities and can be made compatible with existing neighborhoods.

RESPONSE: The comment is acknowledged and included in the environmental record.

COMMENT: 2. We agree with the determination of the environmentally superior alternative which would exclude the Coyote Valley Urban Reserve and utilizing open space easements to "lock in" the edge of the Greenline. In regards to the Coyote Valley Urban Reserve, we would add that the South Almaden Urban Reserve should have been studied as part of that review. We do not understand why it has been assumed that the South Almaden Urban Reserve would develop before the year 2020 as it has similar development "trigger" mechanisms as the Coyote Valley Urban Reserve. Although we fully support the Greenline as originally adopted by the City Council, we believe that deleting the urban reserves from consideration for development would be a better

alternative for San Jose not only environmentally, but also because of the likely very expensive costs to extend and provide urban services.

RESPONSE: The opinion regarding the preferable alternative is acknowledged. The General Plan makes a distinction between the two urban reserve areas. The South Almaden Valley Urban Reserve is expected to develop sooner than the Coyote Valley Urban Reserve, possibly by the horizon year of 2020. This is due, in part, to its proximity to existing development and because it will require less major infrastructure. The South Almaden Valley Urban Reserve is, therefore, more likely to be able to meet the triggers allowing its development sooner, without adversely impacting the City's ability to provide urban services elsewhere. The DEIR therefore made a similar distinction in identifying a potential alternative that, by excluding the Coyote Valley Urban Reserve from inside the Greenline, could still include all land likely to develop through the General Plan's existing horizon year.

COMMENT: In regards to the open space easement option, we hope that the Santa Clara County Open Space Authority will be able to begin acquiring easements and full fee title on property at the edge of the Greenline very soon. We believe that they will be free of legal challenges by December, 1998.

RESPONSE: The current status of the Open Space Authority is included in the text revisions found in **Section IV. Revisions to the Text of the Draft EIR**, in this document. The Open Space Authority would be a possible mechanism for implementing the easements alternative discussed in the DEIR.

7. RESPONSES TO COMMENTS RECEIVED FROM THE HOMEBUILDERS ASSOCIATION OF NORTHERN CALIFORNIA, DATED JUNE 29, 1998

COMMENT: The Home Builders Association of Northern California respectfully submits the following comments for inclusion in the administrative record on the Draft EIR (DEIR):

1. The DEIR Improperly Uses the Existing General Plan as a Baseline.

In HBA's March 19, 1998 letter commenting on the scoping process for the DEIR, HBA raised the point that CEQA prohibits a lead agency from assessing a project's potential environmental impacts solely against the impacts expected from projects contemplated in an existing general plan. The DEIR, however, does precisely that: the DEIR assesses potential impacts associated with the UGB against the impacts expected from build out of the City's existing general plan. There is little, if any, analysis of the UGB's potential impacts against the existing physical environment. At the end of the day, the DEIR is simply a repackaging of the EIR, prepared four years ago for the City's general plan update. This is precisely the type of analysis prohibited by CEQA. See *Environmental Planning -and Information Council etc. v. County of El Dorado* (1982) 131 Cal.App.3d 3 50, 3 56-3 58; *City of Carmel-by-the-Sea v. Board of Supervisors of Monterey County* (1986) 183 Cal.App.3d 229, 246-247.

RESPONSE: The DEIR states in its preface that:

“CEQA and relevant case law require that an environmental document address a project’s impacts compared to existing physical conditions “on the ground.” In the case of a policy revision, however, there may not be a quantifiable direct physical impact attributable to the policy change, particularly if the revised policy is embedded in an existing document, like a General Plan.”

The DEIR must therefore, in order to meet both the letter and intent of CEQA, try to identify both what the immediate impacts of the new policy will be and what the difference would be between the impacts of existing policy and the impacts of the proposed modification to policy. In addition, CEQA requires that a DEIR identify the cumulative impacts of the combination of existing and proposed policies. Therefore, as stated in the preface, the DEIR does all of the following:

- “1) Evaluates the likelihood that future development enabled by the General Plans will be different with the Greenline/Urban Growth Boundary in place than it would be otherwise;
- 2) Describes what will likely be the physical impacts upon the existing physical environment from implementation of the existing General Plans and identifies to what extent the adoption of the Greenline/Urban Growth Boundary will modify or exacerbate those impacts;
- 3) Identifies not only the impacts of adopting the Greenline/Urban Growth Boundary, but also the cumulative impacts of implementing the existing General Plans and adopting the Greenline/Urban Growth Boundary; and
- 4) Identifies where and to what extent secondary impacts from adoption of the Greenline/Urban Growth Boundary (such as new growth within the USA or outside San Jose’s Sphere of Influence) may occur.”

As stated repeatedly throughout the text of the DEIR, it is the City and County’s belief that the proposed UGB “simply reinforces existing General Plan policies which limit development outside of the USA. Therefore, the amount of planned development would not change with adoption of the UGB.” (Page 21 of the DEIR)

COMMENT: 2. The DEIR Improperly Assumes that the Timing of Development Cannot Have Environmental Impacts.

The DEIR acknowledges that the UGB may affect the timing of development activity that is expected to occur within the UGB:

With incrementally less likelihood for growth to occur outside of the USA with the UGB in place, the timeframe for planned infill development might be accelerated, as compared to the timeframe for the infill development without the UGB in place (DEIR at 154).

However, the DEIR, dismisses out-of-hand the possibility that acceleration of what could be a substantial amount of development may have significant environmental impacts: "In any case, issues of timing would not effect the environmental impacts of such development, which is the relevant question under CEQA." (DEIR, at 154).

The DEIR's conclusion that the UGB will not have any significant environmental impacts is based in large part on its unsupported assumption that the timing of development is never relevant for CEQA purposes. In fact, there is every reason to believe that timing will have significant impacts. Starting with an extreme example, if it were the case that every one of the 52,900 housing units allegedly accommodated by the existing general plan were constructed in 1 year rather than over 20, there is no doubt that there would be significant environmental impacts resulting from such a massive amount of development in such a short time. In such a case, it is doubtful that measures intended to mitigate impacts on traffic, air quality, noise, and other areas would be able to be implemented soon enough.....and even if they were, they would probably be overwhelmed in the near term, thereby leaving significant impacts unmitigated for what could be a substantial period of time.

The above example illustrates that acceleration of development can have significant environmental impacts. For this reason, the DEIR is fundamentally flawed because many of the findings of no significant impact rest on the assumption that acceleration of development can never have significant environmental effects. Because the DEIR dismisses even the possibility that acceleration of development may lead to significant impacts, it provides no analysis of the issue and is therefore legally deficient.

RESPONSE: The DEIR's assumptions all rest on the underlying assumptions reflected in the City's General Plan. There is no requirement, in CEQA or in case law, that an EIR address an impossible set of circumstances, such as 52,900 housing units being built in one year in San Jose. The number of dwelling units shown in the City's General Plan is based on a number of factors, including historic absorption rates. Those rates may increase somewhat, but they are not going to increase by a factor of 50 or 100. There is no reason to believe that the market could absorb such an increase, and there is no possibility that the City could process such an increase in permits. Furthermore, there are safeguards inherent in the General Plan that requires new development to meet policies that limit or mitigate environmental impacts.

As this comment itself points out, it would be difficult if not impossible for an enormous increase in development to comply with these existing policies and ordinances for provision of infrastructure. Development that cannot include mitigation for its own increased demand on infrastructure, including transportation capacity, would not conform to existing General Plan policies and would not be approved.

Historically, development levels have waxed and waned over time in San Jose. As the economy and other factors influence construction trends, these increases and decreases result in an average upon which the City and County General Plans, like most long term planning documents, are based.

8. RESPONSES TO COMMENTS RECEIVED FROM THE SIERRA CLUB LOMA PRIETA CHAPTER, DATED JUNE 29, 1998

COMMENT: On behalf of the Loma Prieta Chapter of the Sierra Club, I am submitting the following comments on the DEIR for the Greenline/Urban Growth Boundary. We found the document well written and the potential environmental impacts of all alternatives adequately analyzed. We wish the following to be noted.

Special Status Species: The DEIR correctly determines that the adoption of the UGB would not cause impacts to special status species. However, adopting an alternative which provides for a re-configured boundary which includes lands in the eastern hills may result in future impacts to the special status species found on serpentine soils. While it is true that the adoption of a re-configured boundary itself would not result in an impact, the document correctly notes the species which could be impacted by the future development that would be allowed under this alternative.

RESPONSE: The comment is acknowledged and included in the environmental record.

COMMENT: Air Quality: The DEIR correctly states that air quality impacts in the region will continue to be significant regardless of the adoption of the UGB. While we concur, it should be noted that concentrating development within the UGB and near transit will facilitate the use of alternatives to the car, which will have some beneficial impact on air quality.

RESPONSE: The comment is acknowledged and included in the environmental record.

COMMENT: Traffic: The DEIR correctly states that traffic impacts in the region will continue to be significant regardless of the adoption of the UGB. While we concur, it should be noted that concentrating development within the UGB will facilitate the use of transit, increase ridership numbers, increase recovery percentage at the fare box and have some beneficial impact on traffic impacts.

RESPONSE: The comment is acknowledged and included in the environmental record.

COMMENT: For the above reasons, we concur that the UGB, as proposed, is the environmentally superior alternative. We urge its adoption.

RESPONSE: The comment is acknowledged and included in the environmental record.

9. RESPONSES TO COMMENTS RECEIVED FROM PACIFIC GAS AND ELECTRIC COMPANY, DATED JUNE 29, 1998

COMMENT: Thank you for providing Pacific Gas and Electric Company (PG&E) opportunity to comment on the Draft EIR (DEIR) for the Greenline/Urban Growth Boundary. Our comments relate to the importance of early and close coordination between the City of San Jose, County of Santa Clara, and PG&E.

The DEIR correctly states: "Future population growth associated with implementation of the San Jose and Santa Clara County General Plans will result in significant increases in energy demand." However, PG&E cannot easily accommodate this increasing demand for electricity without substantial lead time, planning, and capital expenditures. Developing new infrastructure (principally power lines and substations) can take several years. Planning, engineering, environmental review, land rights acquisition, and public involvement require considerable time and effort.

PG&E has two 230 kilovolt (kV) substations and 19 115 kV substations in San Jose, and serves 111 customer-owned 115 kV substations. PG&E owns several hundred miles of transmission lines in San Jose that serve 1825 Megawatt (MW) of load in the San Jose area. In the next three years, San Jose and Santa Clara load is estimated to grow at a rate of 120 MW/year, and after that at a rate of 54 MW/year. Below is a representative list of projects required in the next few years to meet this electricity demand:

Approved Projects

North San Jose Capacity Project (substation and transmission lines), 1999
Northeast San Jose Transmission Relief (substation and transmission lines), 2000
FMC Substation Loop (convert substation from a tapped to a looped station), 2000

Projects in Pre-Approval Planning Stage

Plumeria Substation
Piercy Substation
Coyote Valley Substation
Syntex Substation
Hostetter Substation
McKean Road Substation

Each project requires extensive planning and coordination. Infill and demand increases will require more substation sites along with corresponding power lines. As stated in the DEIR, with or without the UGB there will be cumulatively significant increases in the demand for utility services, including the need for new infrastructure. We have in the past, and intend to continue to involve the City and County early in our project planning, and we request that you involve us when issues arise that may affect power requirements.

Our mandate is to provide safe and reliable power at competitive costs. The DEIR correctly assumes that PG&E must expand its facilities to meet demand. We can only do so, and still meet our mandate, by working early and closely with the City of San Jose and County of Santa Clara. We look forward to a continuing successful and beneficial relationship with the City of San Jose and the County of Santa Clara. Please contact us and we can talk about ways to best integrate our planning requirements.

RESPONSE: This information is acknowledged and hereby included in the environmental record. It is the intent of the City of San Jose and the County of Santa Clara to continue to work closely with utility providers such as PG&E in the early planning stages of future development, to ensure adequate provision of utility services.

10. RESPONSES TO COMMENTS RECEIVED FROM LOWELL GRATTAN, DATED JUNE 28, 1998

COMMENT: The Draft Environmental Impact Report does not speak to the following issues-

1. The Greenline limit directs development inside the Greenline and encourages the development and loss of Class A Farm Land and prevents development of adjacent range land not suitable for row crops.

RESPONSE: The discussion beginning on page 28 of the DEIR discusses the loss of agricultural land resulting from implementation of the City's General Plan. The discussion acknowledges that the urbanization provided for in the General Plan, with or without the UGB, will cause the loss of agricultural land within the Urban Service Area. It is also pointed out that adoption of the UGB will not cause any additional agricultural land to be lost. On page 29, the DEIR states that the UGB will not change the existing status of agricultural land adjacent to the UGB.

COMMENT: 2. The Greenline limit directs development inside the Greenline and encourages the development of land within the 100-year flood plan and prevents development of adjacent land above the flood plain.

RESPONSE: The DEIR identifies, beginning on page 51, the presence of the 100-year flood plain in various areas of San Jose, the potential for development to occur within the flood plain, and the fact (on page 54) that the UGB will not cause any additional development to locate in the flood plain. The DEIR also describes how impacts from flooding will be avoided or reduced by existing policies and programs.

COMMENT: 3. The Greenline limit directs development inside the Greenline and encourages the development of land, which in some cases is ten times the cost of land adjacent outside of the Greenline, effectively preventing affordable housing. Housing, where we live, must be considered part of the environment.

I would respectfully request that in reviewing the final Environmental Report, that the above concepts be considered.

RESPONSE: Although the cost of land is not an environmental issue, it should be noted in this context that the cost of providing utilities, extending infrastructure, and designing new development to meet appropriate health and safety codes in the foothills generally reduces the likelihood of affordable housing being built there. In addition, once land is designated for urban development and included within the Urban Service Area, its market value would more than likely increase dramatically.

11. RESPONSES TO COMMENTS RECEIVED FROM SHEPPARD, MULLIN, RICHTER & HAMPTON LLP, DATED JUNE 29, 1998

The letter from this law firm, Sheppard, Mullin, Richter & Hampton, came with four attached letters. Each of the attached letters is responded to separately under subsections 12, 13, 14, and 15 below. The Sheppard, Mullin letter summarizes the various comments on the DEIR which are made in the five documents in six points. The six points, and brief responses to them, include:

1. A statement that the DEIR provides no better basis for a project determination than the previous Negative Declaration because it ignores a critical distinction between the proposed UGB and the existing Greenline Strategy in the General Plan. This difference is that the UGB is characterized as virtually unchangeable while the City's existing Greenline strategy, Urban Service Area location and Land Use/Transportation Diagram are, by comparison, easily changed.

The basis for this contention is mistaken and represents a fundamental misreading of current policy. The importance of the Greenline Strategy is indicated by the fact that it is one of a few fundamental strategies or cornerstones of the General Plan, and has been for over two decades. Similarly, applications for expansion of the USA, which may be *made* annually, are evaluated most rigorously by both the City and LAFCO, which is the granting authority, for conformity with City goals and policy and LAFCO goals and criteria, respectively. Finally, a decision to change the land use designation from a non-urban classification such as Non-Urban Hillside to one which allows urban development, is far more difficult to accomplish than one involving a change of designation from one urban designation to another. The latter type of application is the action which the City routinely addresses during the Annual Review of the General Plan. Most urban expansion requests that are approved are very small, and all have been below the 15% slope line.

2. The second summary statement is that the DEIR simply "rehashes" previous analysis and does not analyze the impacts of placing a prohibition on what is characterized as "further urban development within the Greenbelt".

a) This contention is flawed in a manner similar to the previous statement, due to the fact that the City's and County's General Plans have, for approximately two decades, reflected a countywide policy that urban development shall be prohibited on lands outside cities' urban services areas. In short, there is *no* urban development potential that exists within the Greenbelt in either the City or County General Plans. The countywide policy originated from studies and policy documents dating to the early 1970s and is integral with LAFCO policies. The City policy was instituted with *GP '75*, adopted in 1976.

b) Furthermore, the alleged impacts of San Jose's not meeting its fair share of regional housing needs -- displacement of housing development to other jurisdictions -- are demonstrably unfounded. As described more fully in Section IV.(A)(3) of this Amendment, San Jose's jobs/housing ratio is 0.78, and its housing stock is more than adequate to meet the demand generated by the number of jobs likely to be contained within the City through the timeline of the General Plan.

Implicit within these letters is the assertion that San Jose must be responsible for meeting most, if not all, other jurisdictions' unmet housing needs, given the rising demand for housing created by the ongoing economic vitality of "Silicon Valley" business and industry located in other jurisdictions. To attribute the impacts of commuters driving between jobs in Palo Alto, Sunnyvale, and Santa Clara and homes in the Central Valley, to San Jose's failure to change its policies and allow housing in the Greenbelt, is clearly illogical and indefensible.

3. The third summary statement contends that the DEIR's methodology is inadequate because, among other methodological inadequacies, it targets selected areas for analysis of the potential for development-related impacts of the UGB and ignores others where the author believes impacts are as likely to occur.

The DEIR selected those areas of focus, particularly the Intensification Corridors and Urban Reserves, because, by their very designation in the City's General Plan, these areas are the most likely location for increased development. Under the City's existing policies, infill developed is encouraged and intense infill development is anticipated in the Intensification Corridors. The DEIR does not ignore the possibility of infill development occurring elsewhere, it just focuses on the Intensification Corridors and also looks carefully at the Urban Reserves and the edges of the urban envelope.

4. The fourth summary statement asserts that the Secondary Impacts section improperly characterizes such impacts as too speculative to warrant significant additional analysis.

The analysis in the DEIR bases the conclusion that the potential impacts of housing allegedly being "displaced" to other jurisdictions are speculative on the following:

- a) San Jose demonstrably meets its housing needs. It could reasonably be argued that the vast majority of those who commute, now and in the future, to jobs in the cities of Santa Clara County from outside the county commute to jobs in cities other than San Jose.
- b) Potential housing development in other jurisdictions or regions, even if it could be partly attributable to actions of San Jose, such as adopting the UGB, is a result of so many other significant factors that any conclusions about such impacts would be too subjective to serve as a basis for meaningful discussion and definitive action. Factors which the DEIR has discussed include the relative willingness of other jurisdictions to permit excess housing and the infinite variability of individuals' preferences for housing locations. For commuters who live outside of San Jose and whose jobs are in San Jose, as many are likely to reside in adjacent or nearby cities as are likely to commute from well outside the region.

5. The fifth statement alleges that the alternatives analysis is inadequate.

The DEIR follows the direction in the CEQA Guidelines that an EIR identify alternatives that accomplish most of the basic purposes of the proposed project and reduce or avoid the significant impacts of the project. Alternatives do not need to include the same level of detail as the project analysis and need not include an alternative whose implementation is "remote and speculative", such as an alternative that fails to conform to basic General Plan policies. The discussion of alternatives in the DEIR meets these criteria.

6. The sixth summary statement contends that the growth-inducing impacts analysis fails to meet CEQA standards.

The discussion in the DEIR is specific to the purpose of a CEQA analysis, to determine: (a) whether or not the project provides a direct basis for further development in the form of infrastructure or access or housing; or (b) whether the project facilitates or encourages growth elsewhere.

To the extent that the project may encourage indirect growth, such as infill, the impacts of the UGB are addressed in the analysis of General Plan buildout, particularly in the Intensification Corridors and Urban Reserves; there is no basis for assuming that the project will in any way directly cause growth, since it does not facilitate or encourage infrastructure, expansion of services, or any other support for development, nor does it enable any development whatsoever.

Each of these points is made in additional comments within the five letters, and each of the comments is responded to in detail below.

COMMENT: This firm represents the owners of Young Ranch and the Richmond Ranch, which include tracts of undeveloped land that will be affected by the Greenline/Urban Growth Boundary (the "UGB") proposed by the City of San Jose (the "City") and the County of Santa Clara (the "County"). The purpose of this letter is to provide you with our comments on the Draft Environmental Impact Report (the "DEIR") dated May 15, 1998 for the proposed UGB (the "project").

The acknowledged goal of the Project is to eliminate the discretion of local government for the foreseeable future to permit the development of housing in the approximately 60,000 acres of land that lie within the City's sphere of influence immediately beyond the present urban boundary of San Jose (the "Greenbelt").

RESPONSE: This statement does not represent the "acknowledged goal" of the project. The source of the statement is unknown. The goals and objectives of the UGB/Greenline, as stated in the DEIR on page 11 are to:

More clearly differentiate, over the long-term, between those lands planned and reserved for urban purposes and those which are intended to remain rural in character. Lands within the UGB would receive urban services and lands outside the UGB would not;

create assurances that the growth management policies are seriously and thoroughly evaluated before any change in these policies is entertained;

provide a greater degree of certainty for residents and property owners regarding the long-term expectations for urban development;

promote fiscally and environmentally sustainable development, particularly "infill" development, in locations where the City can most efficiently provide urban services;

preserve surrounding hillsides, wetlands and agricultural and other open space lands as a legacy for future residents and maintain the City's reputation as an attractive place to live and work;

protect public health and safety by preventing urban development in areas subject to natural hazards;

preserve options for the optimal use of lands reserved for future growth, *i.e.*, the Urban Reserves; and

establish greater consistency between City and County land use plans and development policies.

The adoption of the UGB as proposed does not change the amount of residential development that could be allowed in the Greenbelt. The existing General Plan allows such development at non-urban densities (*i.e.*, non-urban hillside, rural residential) and the proposed UGB would continue to allow such densities.

COMMENT: Responsible experts believe that the proposed line may have been drawn too tightly around the City and that the result will be to redirect future development that would otherwise have occurred in the Greenbelt in unplanned and undesirable ways. Specifically, experts who have reviewed the proposed UGB opine that there is a significant possibility that the line is drawn so tightly that it may actually exacerbate urban sprawl by accelerating and deepening the present trend of fulfilling housing demand through "leap-frog" development in southern Santa Clara County, San Benito County and the Central Valley or, alternatively, that it will result in urban infill within the proposed UGB at locations and of a magnitude that has previously been found to have unacceptable impacts. As the experts whose opinions we include herewith attest, there are accepted methods and procedures for quantifying and analyzing these consequences of the Project and we urge that they be employed to permit an informed and meaningful consideration of the proposal.

RESPONSE: This letter and each of its attachments allege that it is their combined opinion that the UGB is proposed at the wrong location and, if it is approved in the "wrong" location, it will have impacts different than those described in the DEIR. The issue of what the UGB "should" be is a different question than what its environmental impacts might be. The decision as to what UGB should be selected for the City of San Jose is a discretionary action to be taken by the elected Council of the City of San Jose. Questions and opinions about the design of the UGB are project issues and should be directed to the Council. The appropriate discussion for an EIR is whether or not the proposed UGB might have significant environmental impacts and, if it does, what changes or alternatives might reasonably be assumed to reduce or avoid those impacts.

The professional planning staffs of the City of San Jose and Santa Clara County, whose expertise and knowledge of San Jose and Santa Clara County is considerable, believe that these opinions, that the UGB is "drawn too tightly" and will "cause" development in other counties, are wrong. In addition, it is not possible for infill development to occur "at locations and of a magnitude that has previously been

found to have unacceptable impacts” without further amending the General Plans. Each of the statements made in each of the four letters attached to this letter from Sheppard, Mullin is responded to separately. In addition, each of the statements made by Sheppard, Mullin summarizing all of the attached letters is responded to individually below.

COMMENT: Unfortunately, the DEIR studiously avoids any effort to address these concerns. Instead of forthrightly examining the intended consequence of the Project, which is to halt the path of development at the present edge of the City, the authors of the DEIR pretend that the Project merely “preserves the status quo.” Indulging in this fiction, the DEIR first concludes that the proposed Project has no impacts whatsoever and then proceeds to present something resembling an analysis of the status quo by rehashing the environmental analysis done several years ago on the 2020 General Plan (the “2020 General Plan”).

RESPONSE: It is not the “intended consequence” of the UGB to stop development at the “present edge of the City” or to preserve “the status quo”. [It is also not clear where the quotation about the status quo comes from--it is not from the DEIR.] As clearly defined in Section I. Description of the Project, the UGB includes all of the land currently in the USA and the Urban Reserves. The goal of the UGB is to reinforce the existing General Plan, which uses the USA and Urban Reserves to delineate which lands are suitable for urban development, and which are not. The remainder of this comment may represent a misunderstanding of how an EIR is prepared. The summary statement at the front of the DEIR document (which is presumed to be what is meant by the statement that the DEIR “first concludes that the proposed Project has no impacts”) is not written first. It is prepared after the complete DEIR is written, and represents a summary of what the analysis included in the DEIR has concluded. The CEQA Guidelines require that the summary be included in the DEIR, and it is usually placed at the beginning of the document.

A DEIR is also required by CEQA to identify the existing setting (“an analysis of the status quo”).

It is acknowledged that the DEIR relied heavily on the City’s adopted General Plan and on the EIR prepared for that General Plan. This was done for two reasons: (1) the cumulative impacts of implementing the General Plan with the UGB in place represent an important part of the information which the City felt should be disclosed in the document; and (2) the FEIR prepared for the General Plan is the most complete statement available of the impacts anticipated to occur from its implementation.

It is not accurate to characterize the analysis in the DEIR as “rehashing” the *San Jose 2020* EIR. As can be determined by reviewing the references on page 178 of the DEIR, the analysis was updated with information from a variety of more recent sources. To the extent that information present in the *San Jose 2020* FEIR is believed to be still accurate, it is appropriate for the City to continue to use that information.

COMMENT: The DEIR barely mentions the actual environmental impacts of the Project, all of which were raised during the administrative proceeding two years ago. The grudging reference to these significant impacts is relegated to just five pages towards the back of the DEIR in the Secondary impacts section. This section is a missed opportunity to provide decision-makers and members of the public with an informed and intelligent analysis of the possible consequences of the Project.- Is the proposed UGB too tightly drawn? Will it have the unintended consequence of promoting undesirable levels of urban infill and worsening far-flung urban sprawl from San Jose into the portions of Santa Clara County that lie beyond the Greenbelt, to San Benito County and to the Central Valley? How will this impact the environment? Instead of forthrightly asking these obvious and pertinent questions and using well established techniques for identifying, quantifying and analyzing impacts, the authors of the DEIR brush these issues aside by characterizing each of them as too "speculative."

RESPONSE: This comment expresses the letter writer's opinion as to the desirability of the proposed UGB, and as to what impacts the adoption of the UGB might have. The City of San Jose disagrees with the letter writer's opinion. The DEIR is believed to accurately represent the impacts which the City anticipates will result from adoption of the UGB as an amendment to the City's existing General Plan. There is additional clarification as to what direct impacts might reasonably be assumed to result from the UGB in Section IV(A)(1) ("What direct adverse environmental impacts were attributed to the project, and why?") of this Amendment to the DEIR.

COMMENT: It is disingenuous for the City to assert that a project of this importance, which officials have described as the most significant land use measure of the decade, does nothing and has, at most, impacts which are purely speculative. Decision makers and the public deserve, and CEQA requires, meaningful environmental analysis of the Project. The purpose of our comments, which are set forth in greater detail in the remainder of this letter and in the accompanying reports and exhibits, is to encourage the City to rethink its approach and to provide a meaningful analysis of the Project, including consideration of realistic alternatives that address some of the many mechanisms that other communities have included in their urban growth boundaries to mitigate the harsh impacts that a tightly drawn boundary can generate.

RESPONSE: There is a difference between environmental impacts and the importance of policy decisions. The DEIR clearly identifies what the goals and objectives of the UGB/Greenline are (page 11). It is not stated in this DEIR, or anywhere else known to the City, that the City believes that the UGB "does nothing". Meeting these important policy goals does not, however, mean that the UGB would have significant adverse physical impacts on the environment. In fact, the EIR indicates the implementation of the UGB would not create any new environmental impacts.

COMMENT: Our letter references and incorporates, and is supplemented by, expert testimony from John Landis, an Associate Professor at the University of California, Berkeley, and Gerrit Knaap, an Associate Professor of Land Use and Urban Planning at the University of Illinois, both recognized authorities on the impacts associated with UGBS, Mundie & Associates ("Mundie"), a respected land use and economic consulting firm with substantial experience in the preparation of environmental impact reports, and Daniel Smith, Jr., the principal of Smith Engineering & Management ("Smith"), a respected transportation consulting firm. The letters and reports prepared by Professor Landis, Professor Knaap, Mundie and Smith are attached hereto as Exhibits 1 2. 3 and

4. respectively, and are respectfully defined herein as the "Landis Report", the "Knaap Report", the "Mundie Report" and the "Smith Report".

RESPONSE: Each of the attached letters is responded to separately. In addition, each of the summary statements in this letter from the attorney, which are said to summarize the attached letters, is also responded to individually below.

COMMENT: Our comments on the DEIR may be summarized as follows:

1. The DEIR adopts the same flawed approach that the court disapproved of last year in the lawsuit over the Negative Declaration. The greenline strategy in the present 2020 General Plan, which the City has never given environmental review, is a general policy statement that does not create an urban growth boundary or impose any limitations on its modification. The current 2020 General Plan leaves the City with full discretion to expand its Urban Service Area. The Project, by contrast, contains specific, mandatory provisions which remove local governmental discretion for the foreseeable future. By ignoring this reality, the DEIR begins on the same false premise that underlay the previously discredited Initial Study and Negative Declaration.

RESPONSE: This comment is erroneous. The Greenline Strategy in the existing General Plan was given environmental review. The Greenline Strategy was part of the *Horizon 2000 General Plan* adopted by the City of San Jose in 1984 and its impacts were addressed in an FEIR certified for that General Plan update. It was also part of the *San Jose 2020 General Plan* and its impacts were addressed in the FEIR certified for that General Plan update in 1995. All of the conclusions in both of those EIRs assumed that the Urban Service Area boundary limited urban growth, and that the policies that restrict development outside the USA would be effective.

There are a number of existing restrictions which apply to expansion of the USA. As stated in the DEIR (page 5), Government Code §56080 defines the USA as lands which are proposed to be provided with urban services during the first five years of a City's adopted capital improvement program. Any expansion of an USA requires LAFCO approval and conformance with LAFCO policies. The City's own General Plan requires that the USA be expanded only where services are available and adequate, planned and budgeted, or will be provided by the developer. In addition, the General Plan states that the USA should not be expanded if serving the expansion will adversely impact existing services or neighborhoods. Should an USA expansion be proposed in the hillsides, it would also be in conflict with the land use designations (usually *Non-Urban Hillside*) and policies relating to development on slopes, seismic safety, access, and impacts to special status species.

The legal arguments represented by this comment are also inaccurate. The existing General Plan identifies a wide variety of policies, many of which would be applicable to any proposal to modify the existing USA. The proposed UGB/Greenline **does not** "remove local governmental discretion for the foreseeable future". The proposed General Plan policy and the municipal code amendment both contain specific procedures for modifying the UGB. As is true of any complex policy document, including the existing General Plan, any significant modification would have implications relative to other policies. As a result, San Jose does not

now undertake comprehensive General Plan updates lightly, which is appropriate in evaluating significant policy changes. The City of San Jose may, at any time, initiate a comprehensive review of its General Plan, during which process the City Council could choose to amend the UGB.

COMMENT: 2. The DEIRs purported analysis of the Project simply rehashes the analysis done several years ago for the 2020 General Plan and does not analyze the impact of the Project's prohibitions of further urban development within the Greenbelt.

RESPONSE: This statement does not identify how the proposed "prohibitions of further urban development within the Greenbelt" would have different environmental impacts than the existing 2020 General Plan prohibition of development within the Greenbelt. No response to this comment is possible.

COMMENT: 3. The methodology employed in the DEIR is inadequate. The DEIR targets only selected areas for analysis, ignoring others where impacts are likely to occur; it adopts an inappropriately short time horizon; and it sets impermissibly high thresholds for significance.

RESPONSE: The DEIR describes why "selected areas" of the City's Sphere of Influence are examined in greater detail (page 26). The City believes that the DEIR identified where impacts could reasonably be assumed to occur and has not "ignored" any area where impacts are likely to occur. This comment does not identify where there are areas that have been ignored which might reasonably be assumed to experience significant impacts from adoption of the UGB. The time horizons described in the DEIR are the same horizons as the City and County General Plans; it would be very arbitrary and inappropriate to simply identify a different time frame for analyzing the impacts of amendments to existing General Plans. The thresholds of significance used in the DEIR were based on the CEQA Guidelines or established City policy and practice, as allowed by CEQA.

COMMENT: 4. The Secondary Impacts Section of the DEIR avoids any analysis of the secondary impacts of the Project by improperly characterizing them as "speculative."

RESPONSE: The DEIR follows the direction in the CEQA Guidelines [§15145] that a Lead Agency should note its conclusion and terminate discussion of an impact which is determined to be too speculative for evaluation. In those instances where the DEIR concludes that impacts are too speculative for further analysis, the reasons for that conclusion are discussed.

COMMENT: 5. The alternatives analysis in the DEIR is inadequate. Among other things the DEIR fails to analyze a reasonable range of alternatives to the Project, the DEIR's formulation and analysis of the "no project" alternative is inadequate, and the DEIR's analysis of the three UGB alternatives is inadequate.

RESPONSE: The DEIR follows the direction in the CEQA Guidelines [§15126(d)] which requires that an EIR identify alternatives that "accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects". The Guidelines require that a "no project" alternative "discuss existing conditions, as

well as what would be reasonably expected to occur in the foreseeable future if the project were not approved". Alternatives do not need to be examined in as great detail as the project, and an EIR "need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative". The discussion of alternatives in the DEIR meets these criteria.

COMMENT: 6. The DEIR's analysis of growth inducing impacts is facially inadequate.

RESPONSE: The meaning of this comment is unclear. No response is possible.

COMMENT: A. The DEIR Adopts The Same Approach That The Court Rejected Last Year In The UGB Lawsuit.

The Project includes significant amendments to the City's General Plan which would (1) establish the UGB, a permanent urban limit line, (2) prohibit major modifications of the UGB except during a comprehensive update of the General Plan, which only occurs every 8 to 10 years, and (3) require numerous findings prior to approving any such major modification, which conditions are so burdensome, inflexible and vague that they effectively preclude any future modification (the Text Amendments). The Project also includes (a) amendments to Title 18 of the San Jose Municipal Code, (b) amendments to the County's General Plan (the "County General Plan") and (c) the City's and County's joint adoption of a Joint Policy Statement.

RESPONSE: This comment is inaccurate. There is no limitation on when a comprehensive update of the General Plan may occur. The City Council could choose to initiate a General Plan update at any time, without restriction. The City is scheduled to update its housing element in 2000, and may choose to undertake a comprehensive update at that time.

The statement as to the criteria for approving a major modification are the letter writer's opinion, and do not relate to the adequacy of the environmental review.

COMMENT: The San Jose City Council (the "City Council") and the County Board of Supervisors (the "Board of Supervisors") originally approved various components of the Project on November 18 and November 19, 1996, respectively. In connection, with those approvals, the City and County adopted mutually exclusive Negative Declarations which concluded that their respective components of the UGB would have no significant environmental effects. Those conclusions were largely based on the premise that the UGB simply maintained the status quo and hence would have no impact on the environment. For example, the City's Initial Study included the following statements: (1) the UGB will not increase or diminish the existing or planned supply of land available for urbanization under the San Jose 2020 General Plan. . . ."; (2) the UGB does not create any additional adverse effects on the environment as identified in the [General Plan EIR] since the amounts and location of potential urban development remains the same"; and (3) the number and location of the housing units that can be accommodated under the General Plan remain the same." (City Administrative Record ("CAR") 659; see also CAR 624, 625, 671-672, 521, 547) [References in this letter to the "City Administrative Record" refer to the administrative record prepared by the City in connection with Naess et al. v. The City of San Jose et al., Santa Clara Superior Court Case No. CV762931 (the "UGB Lawsuit"). We hereby incorporate by this reference the entire City Administrative Record,

the administrative record prepared by the County with respect to the UGB Lawsuit and all pleadings in the UGB Lawsuit.]

Our clients filed a lawsuit alleging that the failure of the City and County to prepare an environmental impact report analyzing the impacts of the proposed UGB violated the California Environmental Quality Act ("CEQA") [The State Office of Planning and Research has promulgated guidelines to implement CEQA. 14 Cal. Code of Regs. §§ 15000 et seq. (the "Guidelines").] At the conclusion of that case, the court invalidated the adoption of the UGB and required the preparation of an environmental impact report ("EIR") prior to any further action with respect to the UGB. In reaching its decision, the court rejected the assertion of the City and the County that the proposed UGB merely preserves the status quo and will have no effect upon the environment.

RESPONSE: This statement is not accurate. The court found that the City had not provided "credible evidence to support the conclusion in the Negative Declaration that the UGB Project will have no significant environmental effects." The court did not rule on the substance of the arguments and did not require preparation of an environmental impact report.

This comment also quotes from the Negative Declaration which the court invalidated, and which is part of the public record. It is not clear from this comment what bearing the quotes from the Negative Declaration have on the DEIR.

COMMENT: The drafters of the DEIR have stubbornly maintained this discredited argument in preparing the DEIR. The DEIR, like the Initial Study, studiously avoids talking about the publicly acknowledged purpose of the Project -- to block the continuing outward spread of development by severely restricting governmental discretion to approve projects within the City's sphere of influence but beyond the City's present Urban Service Area. The DEIR instead mischaracterizes the Project as the maintenance of the status quo. In doing so, the City disregards the voluminous comments made by City officials and local residents during the prior administrative proceedings that further urban development in the Greenbelt is inevitable without the UGB and that the displacement of the housing that would have developed in the Greenbelt to other locations is likely to occur and will have impacts. Once again, the City uses its disingenuous assertion that the UGB does nothing as a pretext for simply cutting and pasting the outdated General Plan EIR as a substitute for analyzing the impacts of the UGB.

RESPONSE: The goals and objectives of the proposed UGB/Greenline are clearly stated on page 11 of the DEIR, and are restated in response to an earlier comment in this letter. The purpose of the UGB has never been identified by the City as intending "to block the continuing outward spread of development by severely restricting governmental discretion to approve projects". In particular, the City has planned long term development in the urban Reserves, which are outside the USA, since 1984. In addition, the City does not agree and has not stated that "further urban development in the Greenbelt is inevitable". It is inevitable that further proposals to develop in the Greenbelt will continue to be made, with associated controversy and distress on the part of citizens and property owners. One of the stated purposes of the UGB is, in fact, to "provide a greater degree of certainty for residents and property owners regarding the long-term expectations for urban development".

COMMENT: As a result, the DEIR utterly fails as an informational document. After briefly describing the Project, the DEIR devotes 132 of its 178 pages (pp. 21-152) to a discussion of the Project's environmental setting, impacts and mitigation measures. However, that analysis has nothing whatsoever to do with the UGB's real world environmental impacts. Indeed, this pivotal section of the EIR begins with the assumption that the UGB will have no environmental impacts. DEIR, p. 21. -Instead of evaluating the environmental impacts associated with the UGB, the DEIR purports to re-analyze the individual and cumulative environmental impacts resulting from buildout under the 2020 General Plan and the County General Plan (collectively the "General Plans") and simply restates the environmental analysis included in the Final Environmental Impact Report for the 2020 General Plan proposed in April, 1994. (the "GP EIR") (CAR 3897) Indeed, two of the three technical reports attached as Appendices to the DEIR are the same reports attached as Appendices to the General Plan EIR. (Compare DEIR, Appendices B and E, to CAR 1301, Appendices H and I). [The City's intent to restate the analysis in the General Plan EIR may explain why it retained David J. Powers & Associates to prepare the DEIR, the same consulting firm that prepared the General Plan EIR.]

RESPONSE: A distinction should be made here between whether or not the commenter disagrees with the DEIR's conclusions about the significance of an impact, and whether or not the DEIR addresses the impact. This comment overlooks statements throughout the DEIR that identify what the City believes is the likelihood that adoption of the UGB will cause significant adverse impacts to the physical environment, as well as the likelihood that the project will have different impacts from the existing General Plan and/or whether it will exacerbate or reduce the impacts from the existing General Plan. Some examples include:

"The proposal by the County to modify their existing policies would have the effect of reducing two potential sources of future land use compatibility impacts...These policy modifications reduce the likelihood that land use conflicts could occur...and will minimize conflicts in the Urban Reserves when they are ultimately approved for urbanization." (page 25)

"It has been argued that the UGB restricts the potential for development outside the USA, and that this restriction could ultimately result in even more dwelling units being proposed in the Intensification Corridors, or elsewhere. The UGB, however, neither limits nor changes the existing potential for residential development in or outside the USA under either jurisdiction's General Plan." (page 25)

"Adoption of the UGB will not cause or enable any additional development in the Intensification Corridors, nor will it permit such development to occur sooner than allowed under the existing General Plan." (page 26)

"Adoption of the UGB by the City and County would not change the amount of either existing or planned development, would not increase the amount of land developed, nor would it permit increased intensity of development. Adoption of the UGB would not, therefore, cause or increase runoff or flooding impacts." (page 54)

In other words, the DEIR states repeatedly and identifies through examples that the UGB will not cause any significant adverse impacts to the existing physical environment. It requires 132 pages to itemize each of the areas of impact, and to fairly identify the existing environment and explain why the City believes that the UGB will not cause an impact in that area. In some circumstances, including land use and geologic/seismic safety, the City believes that the impact of the UGB may be beneficial. With regard to the DEIR's reliance on analysis done for the EIR prepared for the last General Plan update, the UGB is not a new General Plan, it is a modification of an existing Plan, as clearly stated in the Preface. The two technical reports that were prepared for the *San Jose 2020* FEIR in the areas of noise and hazardous materials were thorough comprehensive compilations of information relative to implementation of the City's General Plan. Since it is not possible to understand what impacts would result from the UGB without identifying what impacts would result from implementation of the General Plan, the two technical reports were included in the DEIR in their entirety.

COMMENT: The only mention of possible impacts from the UGB occurs in the five-page Secondary Impacts section of the DEIR, in which the drafters circumvent meaningful analysis by summarily dismissing as "speculative" all of the potentially significant environmental impacts associated with the proposed UGB. This is precisely the same argument that the City and County advanced to justify their Negative Declaration. It was not a convincing excuse then, and it is no more convincing now. It is doubtful that this reiteration of an excuse in place of even a minimal effort to investigate and analyze the consequences of the Project is what the court had in mind when it directed the City and County to comply with CEQA. An EIR must be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. State CEQA Guidelines ("Guidelines") § 15151; *Stanislaus Natural Heritage Project v. County of Stanislaus*, 48 Cal. App. 4th 182, 193 (1996). Instead, the 178 page DEIR contains no more environmental analysis than did the discredited 18 page Initial Study and Negative Declaration of a year ago.

RESPONSE: This comment overlooks the repeated discussions throughout the DEIR as to why the City believes that the UGB will not have significant adverse impacts on the existing physical environment. The UGB is proposed as a policy amendment to two existing General Plans that already reflect or support existing urban service area boundaries and urban reserves. As the DEIR states on page 5:

"The adoption of the UGB does not change the rest of either the City's or the County's General Plans. It does not alter the existing USA line, nor does it change the Plans' assumptions about how or when urban development will occur in San Jose."

The UGB does not authorize, entitle, permit, or allow, any new development or changes in the physical environment at all. It explicitly does encourage the development already allowed and encouraged in the City's existing General Plan. Since the City and County believe that the UGB will have no immediate, direct significant adverse physical impacts on the environment, the DEIR says so.

The discussion of secondary impacts in the DEIR identifies the impacts which this law firm has raised previously, discusses their likelihood for being caused or worsened by the adoption of the UGB, and concludes, for reasons clearly identified in the discussion, that they may be incrementally increased by the UGB, but it is impossible to determine to what extent or even whether that would be true. As allowed by the CEQA Guidelines, the discussion terminates when it is concluded that the connection is speculative. The DEIR also clearly identifies the reasons why the discussion is believed to be too speculative to continue.

COMMENT: B. The DEIR's Analysis Of The Proposed Project's "Direct" Environmental Impacts Actually Has Nothing To-Do With The Project.

The DEIR consists of 176 pages of text, 132 of which discuss the purported "direct" environmental impacts associated with the proposed Project. DEIR, pp. 21-152. However, Section II of the DEIR does not include any analysis of the environmental impacts associated with the proposed Project. The DEIR is quite clear on this point. Section II begins with an introductory note that

"[t]he analyses in this section are all based upon the assumption ... that the proposed UGB simply reinforces existing General Plan policies which limit development outside the USA. Therefore, the amount of planned development would not change with the adoption of the UGB." Id.,p.21

RESPONSE: The introductory note which is partially quoted in this comment, clearly states what the City and County understand to be the truth about the proposed project, which is that it does not propose or allow any new development that is not already allowed by the existing General Plan. The introductory note, which is fully reproduced below, reminds the reader that the Preface, the project description in Section I, the analyses in Section II, and the discussion of Secondary Impacts in Section IV of this DEIR are all based on this understanding. The introductory note on page 21 of the DEIR states in its entirety:

"Introductory Note: The analyses in this section are all based upon the assumption described in Section I, that the proposed UGB simply reinforces existing General Plan policies which limit development outside of the USA. Therefore, the amount of planned development would not change with adoption of the UGB. Each section does, however, identify what cumulative impacts would result from implementation of the existing General Plans with the UGB in place. For a discussion of the potential for secondary impacts that might result from adoption of the UGB, please see Section IV of this EIR."

COMMENT: The DEIR then proceeds to examine a range of environmental categories, but in each case the DEIR never actually analyzes the environmental impacts on the existing environment resulting from the creation of the UGB. Instead, at best, the DEIR discusses the various environmental impacts associated with implementation of the General Plans and repeatedly and summarily concludes that the UGB will have no impact whatsoever on the implementation of the General Plans. See, e.g., DEIR pp. 25, 26, 27, 28, 29, 31, 32, 33, 36-27, 45-46, 47, 54, 55, 56, 63, 66, 70, 72, 86, 87, 112, 121, 122, 129, 13, 131, 135, 140, 141, 142, 143, 148, 148-49, 150, 151, 152.

As a result, Section II, at best, analyzes nothing more than the environmental impacts associated with the implementation of the General Plans.

To illustrate this non-analysis, consider the DEIR's evaluation of flooding, drainage and water quality in Section II.D of the DEIR. *Id.*, pp. 51-60. That analysis begins with a three-page discussion of the existing setting. *Id.*, pp. 51-54. That is followed by approximately three pages of discussion regarding the potential flooding, drainage and water quality impacts associated with implementation of the General Plans (as discussed below, that analysis is artificially and unlawfully limited to the Intensification Corridors and Urban Reserves). *Id.*, pp. 54-56. Following that analysis, the DEIR summarily concludes that the proposed UGB would not alter those impacts in any way. *Id.*, pp. 55, 56. [For example, the DEIR concludes that

"[d]evelopment associated with implementation of the existing San Jose and Santa Clara County General Plans with or without the UGB could result in cumulatively significant flooding and drainage impacts from the development of adopted and proposed land uses, including the eventual development of the Urban Reserves.... These impacts are the result of development of design [*sic*] land use as allowed by the existing General Plan, and are not the result of adoption of an Urban Growth Boundary. (ADOPTION OF THE UGB WILL NOT CAUSE SIGNIFICANT FLOODING IMPACTS OR INCREASE THE SEVERITY OF SUCH IMPACTS, OR REDUCE THE ABILITY OF THE CITY AND COUNTY TO MITIGATE OR AVOID SUCH IMPACTS.)"] The section concludes with approximately five pages of mitigation measures, most of which simply require adherence to certain goals and policies in the 2020 General Plan. *Id.*, pp. 56-60. Obviously, those mitigation measures are meaningless because the DEIR failed to examine the UGB's environmental impacts in the first place.

RESPONSE: The point of this comment is refuted by the example used. The DEIR states, as quoted in this comment, that the implementation of the General Plan will have cumulatively significant flooding and drainage impacts, **but that the UGB will not change those impacts.** The flooding and drainage impacts will result from the development of land with land uses already allowed by the existing General Plan, which are not changed in any way by the UGB. The mitigation measures, as clearly stated on page 56 of the DEIR, are for **cumulative** impacts resulting from implementation of the existing General Plan, with or without the UGB. The UGB allows no new development that will have flooding or drainage impacts. It would be highly inappropriate for this DEIR to identify impacts different than those anticipated to occur from the cumulative implementation of the General Plan, since the City and County believe that the impacts will not be different.

For a more detailed discussion of the assumptions about direct environmental impacts from the proposed project, see Section IV.A. of this amendment, "**Overview of Common Issues Raised in Comment Letters**", especially the discussion in subsection (1) of that part, which address "**What direct adverse environmental impacts were attributed to the project, and why?**"

COMMENT: C. Even If Section II Of The DEIR Had Analyzed The Project's Environmental Impacts, The Methodology Used By The City Is Wholly Inadequate.

As discussed in the previous Section, the core analysis in Section II of the DEIR has nothing to do with the proposed Project, and in fact presupposes that the UGB cannot possibly have any adverse environmental effects. However, even if Section II had analyzed the proposed Project's potentially significant environmental impacts, that analysis would have been wholly inadequate because the City failed to analyze those impacts in the manner required by law.

Both the Mundie Report and the Smith Report discuss in some detail the improper and unlawful methodology in Section 11. We have similar and additional concerns regarding the adequacy of the DEIR's analysis, as follows:

1 The DEIR Unlawfully and Arbitrarily Focuses Analysis Solely on the Intensification Corridors, Urban Reserves and the UGB Interface.

An EIR for a general plan amendment must examine the impact of that amendment on the actual physical environment. Environmental Planning & Information Council v. County of El Dorado, 131 Cal. App. 3d 350, 354 (1982). A lead agency cannot pick and choose which aspects of the physical environment will be examined in an EIR.

However, the City did just that in the DEIR. Specifically, the City artificially narrows the scope of the environmental analysis by focusing solely on the Intensification Corridors, the Urban Reserves and at times, the UGB interface. DEIR, pp. 26-29, 35-36, 37, 45-46, 46-47, 54-55, 63-65, 70-71, 84-85, 86, 87, 141. The only rationale offered for this arbitrary analysis is that the Intensification Corridors are specifically intended by the 2020 General Plan to absorb some of the increased demand for housing and other urban services. *Id.*, p. 26.

That explanation is extremely unpersuasive for several reasons. First, residential development could occur at many locations within the proposed UGB other than the three areas arbitrarily selected by the City. As just one example, the 2020 General Plan converted the land use designations for five sites from non-residential to medium high and high density residential. (CAR 1300 (pp. 18, 19, 2797-2798)) The 2020 General Plan projects that 3,300 residential units will be constructed on the converted lands. How could the DEIR address the Intensification Corridors, but simply ignore these five sites?

Second, the DEIR offers no explanation for the arbitrary inclusion of the Urban Reserves and UGB interface. In particular, it seems apparent that the City focused on the Urban Reserves because the current 2020 General Plan effectively precludes development there during the life of the 2020 General Plan. With respect to the Coyote Valley Urban Reserve, the 2020 General Plan expressly states that

"[f]uture urban development [of the Coyote Valley Urban Reserve] is expected outside of the time frame of this General Plan and can only be considered conceptually in this Plan. Given these factors, the preparation of a plan for the Coyote Valley Urban Reserve is beyond the scope of this General Plan." (CAR 1299, p. 16 1)

In addition, the 2020 General Plan includes a significant number of "prerequisite conditions to the consideration of development in the Coyote Valley Urban Reserve which are quite similar to the heavy-handed criteria for major modifications to the UGB set forth in the City Text Amendments. (CAR 1299, pp. 161-63) This represents a dramatic shift from the City's previous policy set forth in the Horizon 2000 General Plan, which expressly permitted up to 9,000 dwelling units in the Coyote Valley Urban Reserve. (CAR 1326, p. 103) Therefore, no residential development in the Coyote

Valley Urban Reserve will occur before the year 2020, if ever, and the DEIR's analysis of the proposed UGB's impact on the Coyote Valley Urban Reserve is illusory at best.

The same analysis applies to the South Almaden Valley Urban Reserve, except that the 2020 General Plan permits the construction of a small number of residential units (2,000) prior to the year 2020 if all of the burdensome criteria in the 2020 General Plan are met. *Id.*, pp. 15 8-6 1.

Third, the 2020 General Plan includes a number of procedures and mechanisms that conceptually permit residential densification in many other areas of the City beyond the 52,900 units projected in the 2020 General Plan and analyzed in the General Plan EIR. For example, the Discretionary Alternate Use Policies set forth in the 2020 General Plan permit a substantial increase in residential development intensity without general plan amendments. [As noted in the Landis Report and the Mundie Report, the DEIR fails to set forth any data or analysis regarding the current residential holding capacity inside the proposed UGB and note that the actual holding capacity may be inadequate to satisfy any or all of the excess housing demand currently accommodated in the Greenbelt.] (CAR 1299, pp. 179-83)

RESPONSE: This comment states the letter writer's opinion as to the reasons why land within San Jose's USA will develop, argues that the DEIR should have evaluated impacts to areas other than the Urban Reserves, adjacent to the USA, and in the Intensification Corridors, but did not. It also states that the DEIR thoroughly analyzed impacts to the Urban Reserves, but should not have. The comment also points out that the General Plan has a number of discretionary alternate use policies. Many of the issues raised in this comment are also addressed in Section IV(A)(1) of this Amendment to the DEIR.

The DEIR points out repeatedly that the UGB does not change any of the land use designations of the existing General Plans. Since the UGB would not result in any different development occurring on any particular piece of property, it cannot reasonably be argued that any impact from development of land under its existing land use designation would be attributable to the UGB. The letter received from this same law firm responding to the Notice of Preparation (included in Appendix F of the DEIR), states the letter writer's belief that the UGB "will substantially alter present land uses and change land use and zoning designations". While that letter does not explain how those changes will result from the UGB, the letter does refer to information submitted in the "prior administrative proceedings", which is assumed to include the legal arguments submitted as part of the *Naess et.al. vs. City of San Jose* proceedings over prior adoption of the UGB. Those arguments stated that impacts would result from significant development in the Intensification Corridors, as well as general statements that the UGB would "redirect and intensify development pressure inside the UGB" (page 35, Sheppard, Mullin Richter and Hampton; September 30, 1997).

Since it is incorrect that the UGB would somehow "automatically" change land use designations or land use intensity on land which is currently inside the existing USA, the DEIR focused its analysis on areas which the General Plan explicitly intends to absorb increasing and future long-term urbanization pressures, the Intensification Corridors and the Urban Reserves in order to respond to the NOP comments submitted by Sheppard, Mullin. The City and County do not believe that the UGB will cause direct adverse physical impacts to the Intensification Corridors, or the

Urban Reserves, or at any other location in the physical environment. Because, however, the suggestion was made during previous stages of the project review that such impacts could be attributed to the UGB, the DEIR takes an especially close look at those locations where such impacts would be most likely to occur--at the locations intended by the existing General Plans to absorb some of the increased development pressure that could reasonably be anticipated to occur in the future as vacant land suitable for urbanization is fully developed. The DEIR points out that the UGB does not increase the amount of development that is already allowed by the General Plan, and does not relax any of the standards which such development would be required to meet. This is true inside the Intensification Corridors, inside the Urban Reserves, and along the existing USA boundary. The DEIR concludes that the UGB will not, therefore, cause significant adverse impacts to the physical environment as a result of implementation of existing General Plan land use designations in conformance with existing General Plan policies.

The comments that the DEIR should not address the impacts of developing inside the Urban Reserves are erroneous. The *San Jose 2020 General Plan* did not address the impacts of development of the Coyote Valley Urban Reserve because the development was not assumed within the General Plan horizon and the Coyote Valley Urban Reserve is outside the existing USA. Because the UGB (unlike the USA) does include both of the Urban Reserves, their development is appropriately addressed as part of the long term impacts from implementing the UGB. The UGB does not, however, change the land uses allowed by the existing General Plan, nor does it relax the triggers or standards required for development of the Urban Reserves. The DEIR does, however, identify the likely impacts from urbanization of the Coyote Valley Urban Reserve, to the extent that such impacts can be identified at this time. The opinion of the letter writer as to the likelihood of the triggers for development of the Urban Reserves being met do not relate to the environmental impacts of such development.

The City and County do not agree that the UGB will cause **any** direct impacts to existing physical conditions. The existing General Plan, which allows development of urban uses on land within the USA, will have significant impacts to existing physical conditions. The DEIR makes the distinction between these two situations repeatedly. The DEIR also attempts, as clearly and explicitly as possible, to explain why the City and County believe the distinction is appropriate.

The statement in the footnote to this comment, that excess housing demand is currently accommodated in the Greenbelt, is completely false, and appears to make assumptions that would be totally inappropriate for either a General Plan or an environmental impact report. The footnote refers to more detailed information in the letters from Landis and Mundie, which are responded to individually below.

COMMENT: 2. The Planning Horizon for the 2020 General Plan is the Year 2020, but the DEIR Unlawfully Limits its Analysis to the Year 2010.

As the name suggests, the planning horizon for the 2020 General Plan is the year 2020. (CAR 1300, p. ii; DEIR, p. 27) However, for unexplained reasons, the DEIR fails to examine any environmental impacts beyond the year 2010. For example, in its analysis of population, housing and employment,

the DEIR falsely states that the 2020 General Plan anticipates the construction of an additional 52,900 residential units between 1995 and 2010, when in fact those 52,900 dwelling units are projected through the year 2020. DEIR, p. 31. As a result, and as discussed in the Mundie Report the DEIR falsely concludes that the 2020 General Plan projects more growth than the ABAG projections in *Projections* 98. *Id.*, pp. 29-30, 156.

RESPONSE: The DEIR explains in some detail, starting on page 4, the horizon years for both the General Plans and the DEIR analysis. The City General Plan does **not** project 52,900 dwelling units through the year 2020, but assumes that amount of growth will take place through a point in time that will fall between the years 2010 and 2020. A number of factors, particularly the economy, will influence the actual date. Both the DEIR and the General Plan assume that the General Plan will be updated before 2010, and that the assumptions will be adjusted to reflect future growth. See also the discussion in Section IV.A., subsections (2) and (3) of this Amendment, “**The Adequacy of the Housing Supply Within San Jose’s Sphere of Influence**” and “**Differences Between ABAG and City General Plan Assumptions About Housing Demand**”.

COMMENT: D. The Secondary Impacts Section of the DEIR Fails to Analyze the Reasonably Foreseeable Secondary Impacts of the Project.

The DEIR, having spent the first 152 pages finding that a different project, the 2020 General Plan, has no direct impact on the environment, then turns its attention to secondary impacts. of the proposed Project in Section IV. DEIR, p. 153158. This meager five-page discussion is the only grudging attention paid in the DEIR to the significant Project impacts that numerous members of the public, independent experts and our clients repeatedly raised during the prior administrative proceedings and which were the basis of the decision against the City in the UGB Lawsuit. Now, the authors again mischaracterize the Project's severe legal restrictions, which essentially prohibit local government from permitting development in the Greenbelt for the foreseeable future, as "simply reinforcing existing limits on urbanization." *Id.*, p. 153. The only existing legal limits on urbanization, however, are (1) the fact that the land in the Greenbelt currently carries zoning designations, such as non-urban hillside or agricultural, that do not permit urban development; and (2) the general greenline policy statement in the 2020 General Plan (which has never received environmental review). But zoning designations are easily changed by local government, and the greenline policy is just that, a policy. It does not fix a specific greenline, it does not impose specific restrictions on local government it does not prohibit local government from deciding that particular land should or should not be part of a Greenbelt, it does not require that virtually unachievable preconditions be met before even considering development in the greenbelt, and it does not prohibit consideration of development in the greenbelt for years at a time, even as the preconditions could be met.

In short, saying that the Project "merely reinforces existing limits on urbanization" is akin to saying that the adoption of a law prohibiting the manufacture of cigarettes would have no impact because it merely reinforces a current policy discouraging smoking. A general policy statement that does not contain implementing provisions may or may not have impacts. Implementing legislation that contains specific, mandatory provisions will have environmental impacts. By ignoring this obvious reality, the DEIR fails to address the direct impacts of the Project in the first 152 pages of the report, and by adhering to the same flawed premise it similarly fails to address the secondary impacts of the Project in the meager, five-page Secondary Impacts section.

RESPONSE: This comment includes a number of inaccuracies and reflects the letter writer's opinion about how binding the City of San Jose's General Plan policies should be considered. The comment also disregards the existence of the USA and the existing non-urban land use designations on these properties.

The statement that the "only existing legal limits on urbanization" are "zoning" (including non-urban hillside) and a greenline that never received environmental review are both incorrect. The Non-Urban Hillside designation is not zoning but a General Plan land use designation. It allows a maximum density of one dwelling unit per 20 acres. Under the State Subdivision Map Act, property so designated cannot be subdivided inconsistently with that land use designation. As stated elsewhere in response to another comment in this letter, the existing greenline has been in the City's General Plan since 1984. The impacts of the 1984 General Plan update, *Horizon 2000*, were addressed in an EIR certified in 1984. The existing greenline was also part of the *San Jose 2020 General Plan* whose impacts were evaluated in an EIR certified by the City (and successfully defended against a legal challenge) in 1994.

While the existing greenline policy does not identify a specific boundary, it does identify the existing physical conditions to which it is applied, including lands above the 15% slope line. The existing greenline provides very specific direction as to the appropriate location of future urban development. The proposed UGB reflects not only the boundaries of land currently identified as appropriate for urban development, but also the physical constraints of land which the General Plan identifies as not appropriate for urban development (*i.e.*, hillsides, wetlands, sensitive habitats, and the agricultural buffer adjacent to Morgan Hill).

It is not accurate to state that the proposed UGB "prohibits" consideration of development outside its boundary, it only establishes a more rigorous process for approving such development.

COMMENT: 1. The DEIR Contains No Environmental Analysis of the Secondary Consequences of the Project at All.

The lead agency is required by CEQA to evaluate the environmental significance of both the direct consequences of project approval (such as dust and noise levels raised by construction equipment building a project) and the secondary consequences (such as increased population growth, increased traffic and additional pressures on endangered species generated by the project). Guidelines § 15064(d). Often, the most significant environmental impacts of a project are secondary impacts. CEQA requires the same thorough evaluation of secondary environmental consequences that it requires of direct consequences.

RESPONSE: This comment is misleading. The CEQA Guidelines state that the Lead Agency, in evaluating a project, "shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project". [§15064(d)]. The Guidelines explain that "If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment." [§15064(d)2] The Guidelines require that both direct and indirect or secondary impacts be addressed. [§15358 and §15064(d)] Direct impacts could

include traffic, noise, air quality impacts, visual changes, construction impacts, and pressure on endangered species that result from the project itself. Secondary or indirect impacts could include induced growth or facilitated population changes, and the physical impacts of the induced growth. CEQA does not require that a Lead Agency evaluate impacts from secondary effects which the Lead Agency has concluded would not result from the proposed project, or that an EIR evaluate at length impacts which the Lead Agency concludes are too speculative for further discussion. [§15145]

CEQA also recognizes that the degree of specificity of an EIR will relate to the degree of specificity of the project being evaluated and that an EIR on a General Plan cannot be as detailed as an EIR on a development project. [§15146]

COMMENT: The City has failed to include any meaningful environmental review of the secondary environmental consequences of the Project in the DEIR. As Professors Knaap and Landis both note, an urban growth boundary that is drawn too tightly around existing development and which fails to adequately plan for future housing demand may result in the displacement of demand to areas where the adverse impacts will be greater. The prior administrative record and the exhibits submitted herewith are replete with evidence that the UGB may be drawn too tightly and thus will significantly accelerate and worsen the urban sprawl that is already occurring to the south and west of San Jose in San Benito County and in the Central Valley. See, generally, Mundie Report; Landis Report at 2. There is abundant evidence as well that for the same reason the proposed UGB will increase the rate and amount of infill in San Jose to levels that have previously been found environmentally unacceptable. Yet the five page Secondary Impacts section of the DEIR provides no analysis of these impacts whatsoever.

RESPONSE: This comment reflects the opinion of the letter writer, which is different than the opinions of the City staff and various consultants that contributed to the DEIR. The discussion in Section IV.A.(2) and (3) of this Amendment to the DEIR describes why the City and County reached the conclusions that the DEIR includes the amount of housing that it does, and why the City's numbers are different than ABAG's. The City's General Plan and all of the technical analysis prepared for the General Plan explain why the UGB is proposed to be located where it is.

The City and County believe that the UGB is not "drawn too tightly" since it includes virtually all of the land considered suitable for urban development. The argument that more land should be included in the UGB presumes that the lands outside the UGB are suitable for urban development and that they are necessary to accommodate new growth. This argument is fallacious since, in fact, most of the lands outside the UGB are in the hillsides or baylands, which are environmentally sensitive. Urban development of these lands would cause significantly greater environmental impacts in these areas when compared to development on the valley floor, *i.e.*, the flatlands contained within the USA or the Urban Reserves. These impacts include greater potential for: landslides that could severely damage public and private property; severe erosion due to the steep slopes in the hillsides; damage to the City's watershed; destruction of habitat necessary to endangered species; destruction of natural topography due to grading; visual impacts; and greater public responsibility for repairing and maintaining public infrastructure.

The only exception, the only block of flat land left outside the UGB, is south Coyote Valley, the land south of the Coyote Valley Urban Reserve. That land is (1) proposed to remain as a buffer between the City of San Jose and the City of Morgan Hill and (2) so far from the existing urban envelope that it cannot be considered suitable for urban development, even within the farthest long term planning horizon.

COMMENT: 2. The Secondary Impacts of the Project are Not Too Speculative to Analyze.

The DEIR dismisses the need for environmental review of the secondary impacts of the project by dismissing these impacts as "too speculative." The City concedes that growth inside the UGB could occur at an accelerated rate, but dismisses that possibility as "highly speculative." DEIR, p. 155. The City also admits that increased competition could increase housing prices (and therefore discourage affordable housing), but again concludes in summary fashion that the issue is "too speculative to warrant further discussion in this EIR." *Id.* The City next summarily dismisses any possibility that the UGB could result in "leap frog" development, based on the false assumption that leap frog development can only occur if the City "runs out" of residential land inside the UGB, a possibility "too speculative for further discussion." *Id.*, p. 157.

RESPONSE: This comment is inaccurate on several points. The DEIR did not dismiss the need for environmental review of secondary impacts as too speculative. The DEIR includes a section entitled "Secondary Impacts", which this comment then quotes from. The DEIR does not dismiss the possibility of accelerated infill as "highly speculative". The DEIR states that "issues of timing would not effect the environmental impacts of such development, which is the relevant question under CEQA" (page 155). The DEIR states with regard to increased competition for infill housing, that the cost of housing, the sources of affordable housing, and increased competition for housing are market driven economic issues and are, therefore, too speculative for further discussion in an EIR.

At no point does the DEIR state that "leap frog" development will only occur if the City runs out of residential land. The DEIR points out that exportation of housing demand to other areas is the result of a variety of factors and has been occurring for many years, without the City having adopted a UGB. The DEIR also states that there are a variety of things the City can do to increase its housing supply, but that there is virtually nothing either the City or County can do to prevent other jurisdictions from approving housing developments. The DEIR actually says just the opposite of what is attributed to it by this comment; the impact of running out of residentially planned land is too speculative for further discussion.

COMMENT: Section 15145 of the CEQA Guidelines states that "[i]f, *after thorough investigation*, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact." [Emphasis added.] But the DEIR offers no indication that any investigation was made as to whether the identified secondary impacts are too speculative for analysis. Indeed, the identified secondary impacts are the very subjects that planners typically focus on when designing urban growth boundaries. Knaap Report at 3 - 4; Landis Report at 1, 2. As Mundie, Knaap and Landis all discuss and show, there are accepted methodologies for identifying, quantifying and analyzing such impacts resulting from an urban growth boundary. These methodologies are set forth in greatest depth in the Knaap Report.

The methodology requires the lead agency to develop a reasonable forecast of housing demand in the affected area during the duration of the urban growth boundary; to identify the land available for infill development; and to estimate the number of residential units that available land can reasonably accommodate. Landis Report at 1 - 2; Knaap Report at 3 - 4; also, see generally, Mundie Report. The impact of this housing on transportation, public services, parks, schools and other infrastructure as well as other secondary impacts can then be analyzed. The City did not follow this methodology in the DEIR.

RESPONSE: As reflected in the specific responses to the Mundie, Landis, and Knaap letters below, the City did follow a reasoned and thorough process before arriving at the conclusions which are reflected in the existing General Plan. The discussion in the Secondary Impacts section of the DEIR reflects the combined expertise and experience of the City and County professional planning staffs, the extensive research done in updating the City and County General Plans, and the historic experience of City and County government. The City also based the land use designations and holding capacity assumptions in the *San Jose 2020 General Plan*, in part, on the information provided by the City's professional economic and fiscal consultants (*Economic Study for the San Jose General Plan Update*, by Bay Area Economics and Center for Continuing Study of the California Economy; 2/93; and *San Jose 2020 General Plan Update Fiscal Impact Analysis* by Economic & Planning Systems, Inc.; 4/93). As summarized in **Section IV.(A) Overview of Common Issues Raised in Comment Letters** of this Amendment to the DEIR, the location of the UGB reflects a balance between the City's desire to improve its jobs/housing imbalance while still increasing the overall housing supply and protecting the surrounding environment. The City's General Plan reflects the many objectives and differing priorities which must be achieved by a planning document for a large and diverse community.

COMMENT: a. The DEIR Understates Demand to Give a False Impression of Adequate Capacity.

The DEIR incorrectly concludes that the 2020 General Plan provides for adequate housing to meet forecast demand. This incorrect conclusion is the basis for concluding that the Project will not create pressure for unacceptable levels of densification within the UGB and promote far flung urban sprawl. But, as the Mundie Report shows, even when the 2020 General Plan was adopted several years ago, it was not intended to accommodate all of the households that were then expected to locate in San Jose. Mundie Report, p. 5.

The DEIR obscures the excess demand for housing in San Jose by juggling the numbers. The DEIR looks at the demand forecast in *Projections 98* compiled by the Association of Bay Area Governments ("ABAG"). But, although the time frame of the 2020 General Plan runs through the year 2020, the authors of the DEIR inexplicably ignore the demand figures through the year 2020 provided in *Projections 98* and choose to focus, instead, on demand only through 2010. This choice allows the City to understate demand and to cobble together an argument that 52,900 housing units provided for in the 2020 General Plan are more than adequate to fulfill all foreseeable housing demand.

The Mundie Report shows that even when the 2020 General Plan was prepared it was understood that even through 2010 it provided 13,100 fewer housing units than necessary to meet demand. Mundie Report, p. 5. These "extra" housing units would have had to be provided either through expansion of

the USA or through more intensive infill -- which was found to have serious, adverse environmental impacts. The Mundie Report then looks at *Projections 98* and analyzes housing demand in San Jose through the full duration of the current general plan. Mundie concluded that, based upon *Projections 98*, the foreseeable demand will require the addition of more than 64,000 dwelling units between now and 2020 -- at least 11,000 more units than presently provided for in the 2020 General Plan. The DEIR should be revised to base its analysis on this more realistic forecast of housing demand for San Jose through the planning horizon of the current 2020 General Plan.

RESPONSE: The discussion at the beginning of the responses to comments section, Section IV.A (2) and (3) explains how the holding capacity of the General Plan was identified, and why the horizon date for the General Plan is really *between* 2010 and 2020. As stated in the DEIR, there is no inherent requirement, either in State planning law or in CEQA, that a community provide a housing unit of the type and at the location desired by every person that ever wants one. Despite its jobs/housing imbalance, San Jose has made a good faith effort to continue to provide for additional housing in its General Plan, and the efforts were recognized by the State in accepting the City's Housing Element (see Section IV.A, subsection (2) of this Amendment). In addition, San Jose proposes to add additional housing to more than provide for its resident work force through the year 2010. The reference to "serious, adverse environmental impacts" is not to any information in the DEIR.

Specific responses to the issues raised in the Mundie letter are contained in part 12, below, which contains the Mundie letter and responses to it.

COMMENT: b. The DEIR Does Not Meaningfully Analyze Holding Capacity.

The Mundie Report shows that the DEIR did not properly analyze the capacity of the area within the proposed UGB to accommodate the forecast demand for housing. The 2020 General Plan provides for 52,900 additional residential units in San Jose during the period from 1994 through 2020. As indicated above, the DEIR incorrectly concludes that capacity is adequate to accommodate demand. But, acknowledging the possibility of excess demand, the DEIR suggests that additional capacity exists in the Intensification Corridors, the South Almaden Valley Urban Reserve and the Coyote Valley Urban Reserve. But the DEIR fails to identify how much capacity for additional housing actually exists in each of these locations, taking actual site conditions and other constraints on development (such as odd parcel sizes, contamination, lack of access and existing land use restrictions) into consideration.

RESPONSE: This comment misstates the contents of the DEIR. The DEIR does specifically identify the numbers of dwelling units that are anticipated in each of these areas. The existing General Plan is identified as including "adequate lands in various land use categories to accommodate growth through a point in time that is estimated to fall between 2010 and 2020" (page 4 of the DEIR). The City believes that housing demand will result in the development of about 52,900 new dwelling units in San Jose between the time period from 1994 until a point in time between 2010-2020, and 50,900 of those dwelling units can and will be constructed within the existing USA. Approximately 2,000 units can be developed in the South Almaden Valley Urban Reserve, and the General Plan assumed that their development would also occur sometime prior to 2020. The DEIR points out that there is flexibility in the General Plan to meet future housing needs, that the residential designations allow for a range

of densities, and that the City's Alternate Land Use Policies and Intensification Corridors allow for a wider variety of housing types and locations.

A city of the size of San Jose does not evaluate in its General Plan the status of every vacant and/or underutilized parcel. The General Plan does not, and is not intended to plan the specific design for future development projects. The DEIR does point out that, during the last General Plan update, it was estimated that 6,600 dwelling units could be built in the Intensification Corridors, and this number is not changed by the adoption of the UGB (page 26 of the DEIR). The DEIR also identifies the 20,000 to 25,000 dwelling units which the City believes could reasonably be developed in the Coyote Valley Urban Reserve.

COMMENT: Indeed, two of the largest identified areas for infill, the South Almaden Valley and Coyote Valley Urban Reserves, are subject to express 2020 General Plan preconditions that must be met before any significant number of housing units can be constructed. As the Mundie Report observes, these preconditions are *defacto* prohibitions on any development in the Coyote Valley Urban Reserve and on any development beyond 2,000 units in the South Almaden Valley Urban Reserve. The DEIR also fails to consider the densities at which infill development can occur. As the Landis Report indicates, the densities assumed in the DEIR far exceed realistic market densities for the area. The DEIR should be revised to include a thorough analysis of the holding capacity of each of the areas available for infill development within the proposed UGB, including an analysis of anticipated densities, and the likelihood of each being available to meet demand.

RESPONSE: The "Mundie Report" (which letter is responded to separately below), is an opinion. The City of San Jose does not agree with the opinion and does not consider the triggers for developing the Urban Reserve to be prohibitive or impossible to fulfill. The "Landis Report" (which letter is responded to separately below) is also an opinion. As stated in response to that opinion, the average densities of residential development approved in San Jose over the last five years has been significantly greater than the density Mr. Landis calculated would be required to develop in San Jose (which number was actually based on faulty calculations).

COMMENT: C. The DEIR Fails to Quantify the Pressure for Far Flung Sprawl that Will be Created by the Project.

The DEIR does not contain any analysis of whether the UGB will redirect unmet housing demand in San Jose outward to leap frog developments in sections of Santa Clara Valley beyond the Greenbelt, to San Benito County and to the Central Valley. Professor Landis and Mundie both see this as a likely consequence of the UGB. Both are of the expert opinion that there is a realistic possibility that there is inadequate capacity at realistic densities to meet anticipated demand within the UGB and that the resulting excess demand will be redirected outward beyond the Greenbelt. The DEIR should conduct the holding capacity analysis discussed above to determine whether the current, realistic forecast demand for housing can be met by infill at realistic densities. The DEIR should then estimate the amount of forecast demand that will be redirected outward beyond the Greenbelt by virtue of the UGB, either because there is inadequate capacity within or because the capacity within will be at high densities that will drive a portion of demand to remote but less dense alternatives. [The DEIR observes that leap frog development is the result of buyers opting for lower density housing that is only available in the remote satellite developments of Santa Clara County, San Benito County and the

Central Valley. This observation highlights one aspect of the cause and effect relationship between the Project, which promotes higher urban densities, and leap frog development.]

This analysis will permit the City to then analyze the impacts of the Project on the area outside of the UGB.

RESPONSE: This comment, like the previous one and the comments in the attached letters, ignores the statements in the DEIR, and falsely attributes statements to the DEIR that were not made. The DEIR points out that the phenomenon of people working in Santa Clara County and commuting to housing in other counties is **not** because there is a shortage of housing in San Jose. The DEIR points out that this commuting pattern is well established now, and became established long before San Jose even considered adopting a UGB. As explained in Section IV.A, subsection (1) of this Amendment to the DEIR, "What direct adverse environmental impacts were attributed to the project, and why?", there are a number of ways that home buyers may react to future restrictions on the housing supply which result from future development patterns, and there are various ways that other jurisdictions may react to the ongoing commute patterns. San Jose and Santa Clara County cannot control any of these reactions.

The DEIR does **not** state that "leap frog development is the result of buyers opting for lower density housing that is only available in the remote satellite developments of Santa Clara County, San Benito County and the Center Valley". The DEIR specifically states that "There are various factors which contribute to long-distance commuting" (page 156).

COMMENT: 3. The DEIR Fails to Analyze the Possible Impact of the Project on the Location, Distribution, Density or Growth of a Population.

A project may be deemed to have a significant effect on the environment if it will induce substantial growth or concentration of population. Guidelines, Appendix G, Item (k). The City itself requires the preparation of an EIR for a project which will significantly alter the location, distribution or density of a population. The intended purpose of the Project is to redirect the future location, distribution and density of population in San Jose. The entire reason for the UGB is to prevent urbanization beyond its borders by limiting, to the point of extinction, the discretion of local government for the foreseeable future to permit development in the Greenbelt. The UGB is drawn tightly against several areas where there has been a recent, outward push of development to accommodate the growing population of San Jose. It is no secret that the clear intent of drawing the line as tightly as it has been drawn is to stop this outward thrust of development. If the Project is approved, a reasonably foreseeable consequence is that residential development which could have occurred in the Greenbelt will be displaced to other locations either within the UGB or out to remote locations beyond the Greenbelt. This is the whole idea.

The DEIR, however, coyly pretends that all that the Project does is preserve the status quo. DEIR 1-5, 153-4. Pivoting on this artificial point, the DEIR turns away from analyzing the real, intended consequences of the Project and focuses all of its attention on rehashing an old analysis of the impacts of pre-existing land use policies embodied in the General Plan. The impact of redirecting housing development away from its current path by erecting the UGB is nowhere analyzed in the DEIR. As our earlier discussion indicates, methodologies exist for analyzing the impact of the Project on population location, density, distribution and growth. The expert opinions set forth in the Mundie

Report and in the Landis Letter provide convincing evidence that the Project will have its intended effect -- it will displace future housing from the Greenbelt to other areas, in either increased densities within the UGB or in leapfrog development beyond the Greenbelt. These are environmental impacts which must be analyzed under CEQA. The DEIR should be revised to include this analysis.

RESPONSE: This comment seems to assume that development pressure is the same thing as development. Requests to develop in the foothills or baylands outside the proposed UGB and existing USA and Urban Reserve boundaries, are not the same thing as development being approved there, nor does the fact that someone wants to develop a property mean that the property is therefore suitable for development. There is no existing urban development potential in the Greenbelt; it is designated in the General Plan for low intensity, non-urban uses.

As stated in several of the project objectives, the purpose of the Greenbelt is to minimize development *pressure*, to: "Provide a greater degree of certainty for residents and property owners regarding the long-term expectations for urban development", and to "Promote fiscally and environmentally sustainable development, particularly 'infill' development, in locations where the City can most efficiently provide urban services".

The City disagrees with this suggestion that, without the UGB, extensive development in the steep hillsides and baylands, flagrant violations of existing City and County policies, is inevitable. The "development potential" which is identified in the letters attached to this letter is based on the opinion of the individuals writing the letters. The City believes those opinions are mistaken.

COMMENT: 4. The DEIR Fails to Analyze the Possible Impacts of the Project on Existing Traffic Conditions.

Increases in traffic which are substantial in relation to existing traffic load and capacity are significant impacts for purposes of CEQA. Guidelines, Appendix G, Item (1). The City generally finds that a project will result in significant impacts for purposes of CEQA if it will result in traffic conditions that are inconsistent with the City's transportation standard LOS "D." (CAR 667).

Traffic consultant Daniel Smith's expert opinion is that the transportation analysis in the DEIR is not an assessment of the Project. Smith Report, p. 2. As is the case throughout the DEIR, since the City operated on the premise that the Project merely preserves the status quo, its transportation analysis just restates the out-of-date analysis done of the transportation element of the General Plan EIR several years ago. Not surprisingly in these circumstances, Smith finds that the DEIR contains no meaningful assessment of the transportation consequences of the land use changes inherent in the proposed Project. *Id.* Smith also concludes that the City did not even do the basic ground work necessary to permit someone to do a transportation analysis of the project because the DEIR does not analyze how and where population growth will be redirected by the Project.

RESPONSE: It is the expert opinion of the professional traffic engineers working for the City of San Jose, and of the professional traffic consultants that worked on the DEIR, that the DEIR does accurately identify the impacts of the project. It is not the City's position, nor does the DEIR state that the UGB "preserves the status quo". Establishing the UGB is a major policy statement that has no environmental impacts, including traffic.

It is the City's position that the UGB will not allow any development that is not already allowed by the existing General Plan, and, therefore, no development or traffic from that development will occur that is different from the development and traffic that is predicted to occur as a result of implementation of the existing General Plan.

Mr. Smith's opinion notwithstanding, *there are no land use changes proposed or anticipated to occur as a result of the adoption of the UGB*, nor will population growth be "redirected" by the proposed UGB. [Specific responses to each of the comments in the Smith letter are included in subsection IV.B.(13) of this Amendment to the DEIR.]

COMMENT: Smith says that to the extent that development location shifts caused by the project occur as densification within the UGB, the Project would increase traffic pressure on key freeways, expressways and arterial intersections already operating in deficiency conditions. Smith Report, pp. 5-7. To the extent that development shifts caused by the project occur in distant communities that are tributary to San Jose, the Project would increase traffic pressure on regional gateway corridors already operating in deficiency conditions. Smith Report. None of these possible effects of the Project are evaluated in the DEIR. As the detailed discussion in the Smith opinion illustrates, because of the deficient condition of major routes within San Jose and the similarly deficient condition of commuter routes to distant communities likely to receive redirected demand from San Jose, even *relatively minor* redistributions of population resulting from the adoption of the Project may have *significant* traffic impacts. Smith Report, p. 2, 5-7. These possible impacts should be studied in a revised DEIR.

RESPONSE: Future infill development in San Jose will occur pursuant to the existing *San Jose 2020 General Plan*, under the existing General Plan land use designations, and in conformance with existing General Plan policies and standards. The UGB does not provide for or allow development different than that allowed by the existing General Plan, although one of the UGB objectives is specifically to encourage infill development consistent with the existing General Plan land use designations and General Plan policies. The General Plan reflects both goals and objectives and acknowledges limitations and constraints. For example, the General Plan states that intensification of development within the *Capitol Avenue/Expressway Intensification Corridor* will occur more slowly than in the other intensification corridors because development in that area is more likely to create congestion that cannot be mitigated in the near term by transit usage, based on anticipated transit utilization. Intensification is explicitly anticipated to occur only in conformance with the transportation LOS policy [Section V. Land Use Transportation Diagram, Special Strategy Areas, Intensification Corridors, page 122, *San Jose 2020 General Plan* as amended through 11/20/97].

The UGB cannot, therefore, result in any redistribution of population within San Jose that is different than what is already contemplated and encouraged by the existing General Plan, and which is reflected in the TRANPLAN run that was done for the DEIR.

Development in "distant communities" would have traffic impacts similar to development in the Greenbelt: increased congestion on freeways and on arterials leading to employment areas. As stated in Section IV of the DEIR (Secondary

Impacts), San Jose cannot influence development in “distant communities” and does not agree that such development should be directly attributed to the UGB.

COMMENT: The Smith Report also notes that, aside from studying the impacts of the wrong project (the General Plan) on the environment, the DEIR transportation analysis is deficient because it utilizes inadequate and outdated base-line data. Smith Report, p. 7-10. The use of this inadequate and out dated data may significantly understate impacts of the Project, as traffic conditions have worsened in the intervening years since this data was gathered.

RESPONSE: As stated in the response to the letter from Smith (below), the updated information on existing congestion is not essentially different from the information in the DEIR and does not change the DEIR’s assumptions about future behavior changes, the importance of future development patterns, or the need for development proximate to transit. It also does not change the likelihood or significance of identified impacts.

COMMENT: 5. The DEIR Fails to Analyze the Possible Impacts of the Project on the Supply of Low Income Housing in San Jose.

The City requires consideration of Project impacts which significantly reduce the supply of low-income housing or displace residents. (CAR 667) Santa Clara County already has the highest priced housing in the nation. Landis Report, p. 2. Both Mundie and Landis are of the expert opinion that the creation of a permanent urban limit line drawn tightly around the existing boundary of San Jose could substantially drive up the cost of housing and reduce the supply of low income housing within the UGB. See, generally, Mundie Report; Landis Report p. 2. This possible impact of the Project is not analyzed in the DEIR. A revised DEIR should include a thorough analysis of this possible impact.

RESPONSE: This statement is incorrect. The likely effect of the project on the supply of affordable housing, which is assumed to be beneficial, is discussed in the DEIR. As stated on page 154 of the DEIR, “To the extent that the UGB encourages infill development, much of which is higher density and/or multi family residential, the supply of affordable housing may be incrementally improved.” As further discussed in the DEIR, affordable housing is not being built on the edge of the urban envelope and would be unlikely to be built in the Greenbelt, where the cost of infrastructure is higher than on the Valley floor, and the need to mitigate seismic and other environmental impacts add to the cost.

The DEIR reflects the expert opinion of the City of San Jose and Santa Clara County professional planning staffs, whose combined experience and knowledge of San Jose and the housing conditions in San Jose, is considerable.

COMMENT: 6. The DEIR Fails to Analyze the Possible Impacts of the Projects on the Utilization of the Existing Infrastructure Including Parks and Recreation Facilities.

The City requires that an EIR consider the impact of a project on the demand for park and recreational facilities. (CAR 668) The Mundie Report finds that the urban area within the proposed UGB currently has insufficient park land to serve its existing residents, and that the displacement of population caused by the UGB will increase this deficiency by at least 83.6 acres. Mundie Report. This possible impact of the project is not analyzed in the DEIR and should be thoroughly analyzed in a revised DEIR.

RESPONSE: This statement is inaccurate. The DEIR discusses in Section III. Availability of Public Systems the likelihood of increased demand for a number of public services which are provided to the community from a defined set of nodes, including fire, police, park, and library services (page 147 *et. seq.*). The discussion on parks (page 150) points out that the City of San Jose recently adopted a new Parkland Dedication Ordinance which requires that all new residential development must either dedicate sufficient park land space to serve new residents or pay fees calculated to offset the increased costs of providing new park facilities. The discussion states that implementation of the City and County General Plans will increase demand for parks, which is not an environmental impact, and that new parks will probably be built, which will change the physical environment but would not be considered a significant adverse environmental impact. The discussion also concludes that the UGB will not increase demand for parks beyond the demand anticipated from implementation of the existing General Plans.

COMMENT: 7. The DEIR Fails to Analyze Various Other Possible Impacts of the Project.

Because its fundamental approach is so flawed, the DEIR fails to even consider the possibility of several other Project impacts. Encouraging activities which result in the use of large amounts of fuel, water, or energy may be deemed to be a significant effect for purposes of CEQA. Guidelines, Appendix G, Item (n). So too is the conversion of prime agricultural land to non-agricultural use. Guidelines, Appendix A, Item (y). CEQA also deems significant impacts which interfere with adopted environmental plans and goals of the community. Guidelines, Item (a). To the extent that development displaced from the Greenbelt by the Project relocates to distant developments in San Benito County or the Central Valley, both of these impacts may result. Workers who, if they were located close in to San Jose could take public transportation or commute for short distances by automobile would, if required to commute from the portions of Santa Clara Valley that lie beyond the Greenbelt, or the Central Valley or San Benito County, consume far larger amounts of fuel each day. In addition, while the land in the Greenbelt is of marginal agricultural quality, much of the land that is being converted to housing in the Central Valley is prime agricultural land. Moreover, the Project may interfere with established communities' goals. The Local Agency Formation Commission ("LAFCO") establishes growth management policies for the City's sphere of influence. Gov. Code § 5638 1. The DEIR fails to consider that the Project places a *de facto* constraint on LAFCO's authority to implement community goals.

RESPONSE: As stated previously, and as stated in Section IV. Secondary Impacts, in the DEIR, the City does not believe that the adoption of a UGB will cause development to occur in San Benito County or the Central Valley. The potential for the UGB to actually cause impacts to agricultural lands is discussed on pages 28 and 29 of the DEIR. Since San Jose includes within its existing General Plan more than sufficient housing to accommodate its anticipated future work force, neither the General Plan nor the addition of the UGB will cause workers to commute to the Central Valley or San Benito County. No action that is proposed by the City or County will "displace" development from the Greenbelt, since no development is currently allowed in the Greenbelt by City or County policies.

This comment points out that workers living "close in to San Jose could take public transportation or commute for short distances", and implies that this conforms to the City's environmental goals and policies. That implication is accurate, but locating

development in the Greenbelt, which is not "close in to San Jose" and from which commuters would not be able to use public transportation, would specifically not conform to the City and County adopted environmental policies. In fact, urban development in the Greenbelt could significantly increase traffic congestion since the traffic must travel on the freeways, expressways and arterials already experiencing congestion.

The DEIR addresses, on pages 15 and 16, the conformance of the proposed UGB with LAFCO policies. The proposed UGB is consistent with LAFCO policies. There is nothing in LAFCO policies or in the legislation supporting LAFCO that authorizes LAFCO to encourage sprawl outside a City's USA.

COMMENT: E. The Alternatives Analysis In The DEIR Is Inadequate.

The alternatives analysis in the DEIR is seriously misleading and inaccurate for a number of reasons, each of which is discussed below.

I. The DEIR Fails to Analyze a Reasonable Range of Alternatives to the Project.

An EIR for a project must "[d]escribe a range of reasonable alternatives to the project ... which would feasibly obtain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. " Guidelines § 15126(d). An EIR "must produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned." San Bernardino Valley Audubon Society, Inc. V. County of San Bernardino, 155 Cal. App. 3d 738, 750-51 (1984).

The DEIR fails these tests. The DEIR ostensibly includes six alternatives. DEIR, pp. 161-62. For the reasons discussed below and in the Mundie Report, all of those alternatives violate CEQA requirements in multiple ways.

However, assuming for the moment that the alternatives were facially adequate, none of them differ substantially from the UGB concept and some of them are effectively meaningless or illusory. The first two alternatives are variations of the "no project" alternative required in any EIR. Id., pp. 162-63. The third, fourth and fifth alternatives are all variations of the UGB (collectively, the "UGB Alternatives"): (1) a smaller area inside the proposed UGB; (2) a larger area inside the UGB; and (3) no minor modifications to the UGB. Id., pp. 163-70. The sixth alternative is for the City to buy unspecified property on the edge of the urban envelope. Id., pp. 170-71. According to the City, however, this alternative is infeasible on its face because the City has no funds to purchase the unidentified property. Id.

As a result, the DEIR utterly fails to analyze meaningful alternatives that differ substantially from the proposed Project. In our written response to the NOP dated January 16, 1998 (the "January 16 Letter"), we asked that the City include an alternative that permitted a "limited" or "creative" development program, combining the permanent conservation of large tracts of land in the Greenbelt with compatible new development (the "Limited Development Alternative"). DEIR, Appendix F. This type of development program has been used successfully throughout the country and would satisfy most, if not all, of the City's objectives. We also suggested a number of other components that could be included in such a development program, such as transferrable development rights.

In a brief discussion, the DEIR rejected this alternative, and refused to analyze it 'in the DEIR, for two reasons. First, the City stated that this alternative would be "environmentally inferior" to the proposed UGB because, "while this arrangement would secure some permanent open space, it would also allow additional development 'in the greenbelt. " *Id.*, p. 160. The DEIR goes on to state that "there are no known environmental benefits that would result from allowing more development outside the USA." *Id.*, p. 16 1.

However, this summary dismissal of the Limited Development Alternative reflects the same tunnel-vision approach adopted by the City during the prior administrative proceedings for the proposed UGB that was rejected in the UGB Lawsuit. In addition to downplaying or ignoring the significant environmental benefit associated with the permanent preservation of large tracts of open space in the Greenbelt, the DEIR ignores that the environmental impacts of intensifying the amount and rate of residential growth inside the UGB and/or redirecting residential development outside the City's sphere of influence, one or both of which must occur to accommodate the excess housing demand discussed above if the UGB is adopted, would be avoided. As a result of this one-sided analysis, the DEIR undermines the purpose of the alternatives analysis -- to evaluate the comparative merits of the proposed project and the alternatives. Since the Limited Development Alternative would substantially lessen the significant environmental impacts associated with the proposed UGB, the Limited Development Alternative should not have been rejected on that basis.

RESPONSE: This discussion reflects the letter writer's opinion that the proposed UGB would have significant adverse impacts. The City and County do not agree with that opinion, for the reasons outlined at length in the DEIR. Other than the "No Project" alternative, there is no inherent requirement to identify any alternative in the DEIR because the purpose of the alternatives discussion is to focus on alternatives "which are capable of avoiding or substantially lessening any significant effects of the project". [§15126(d)(1)] The CEQA Guidelines advise that an EIR need only "set forth...those alternatives necessary to permit a reasoned choice". [§15126(d)(5)] The Guidelines also advise that an EIR "should briefly describe the rationale for selecting the alternatives to be discussed" and identify alternatives rejected as infeasible. [§15126(d)(2)] The Guidelines do not identify the *purpose* of the discussion as evaluating "the comparative merits of the proposed project and the alternatives", it advises that enough information should be provided to allow the comparison.

As explained in the DEIR, what this letter writer calls the "Limited Development Alternative" would explicitly allow specific development in the Greenbelt that would not be allowed by the project, and which would, therefore, have a definite set of environmental impacts that would not occur with the proposed project. The letter writer then suggests that these impacts would be less than the hypothesized set of secondary impacts which the letter writer attributes to the proposed project. The City of San Jose does not agree with the comparison and did not include the "Limited Development Alternative" in the DEIR for the reasons described on page 159.

COMMENT: Second, the City contends that the Limited Development Alternative is not compatible with the first four of the following six project objectives identified in the DEIR:

- a. Provide a greater degree of certainty for residents and property owners regarding the long-term expectations for urban development.

- b. Promote fiscally and environmentally sustainable development, particularly "infill" development, in locations where the City can most efficiently provide urban services.
- c. Preserve surrounding hillsides, wetlands and agricultural and other open space lands as a legacy for future residents and maintain the City's reputation as an attractive place to live and work.
- d. Protect public health and safety by preventing urban development in areas subject to natural hazards.
- e. Preserve options for the ultimate use of lands reserved for future growth, i.e., the Urban Reserves.
- f. Establish greater consistency between the City and County land use plans and development policies for areas within and outside the UGB.. Id., p. 160.

RESPONSE: This comment is incorrect. The DEIR contends that the "Limited Development Alternative" is not compatible with any of the project objectives listed (page 160). The DEIR explains in detail the incompatibility of the alternative with the first four of the objectives.

COMMENT: With respect to the first project objective, the Limited Development Alternative would provide a greater degree of long-term certainty regarding urban development than the proposed UGB. The dedication of large tracts of open space would permanently eliminate the development potential for that land. While the City Text Amendments would make urban development in the Greenbelt extremely difficult, the possibility remains that, over the long-term, the City could amend the 2020 General Plan to permit urban development in the Greenbelt in response to increasing development pressure.

RESPONSE: This comment appears to differ from previous assertions in this letter that the UGB is "permanent" and eliminates discretionary actions to change the urban limit.

The DEIR states the following with regard to this alternative's conformance with the first objective: "If development outside the USA can be approved on a case-by-case basis, dependant on whether or not each development proposal is considered to have enough open space or enough conservation protection, the public has no assurance that the urban limit line will be maintained in the long term." The alternative, by definition, includes near term development in the Greenbelt. The proposed UGB, by definition, precludes near term development in the Greenbelt. The alternative does not, therefore, protect as much of the Greenbelt as the project does. In addition, the precedent of approving first one and then another development, each with a different and uncertain amount of open space "protected" from additional development, reopens the project-by-project approach to protecting the Greenbelt

COMMENT: With respect to the second project objective, we first note that the proposed UGB is not compatible with it. The proposed UGB encompasses both of the Urban Reserves, both of which are located in the Greenbelt and are similarly situated to other real property adjacent to, but outside, the proposed UGB, including our clients' properties. In fact, the Coyote Valley Urban Reserve is located farther from the City's urban core than our clients' properties. Equally important, the DEIR

ignores the regional impacts of the leap frog development that will occur if the UGB is adopted. Obviously, that development will be located much farther from the City's urban core (and presumably from the urban core of other cities in the area) than the real property located adjacent to or near the proposed UGB.

RESPONSE: The second sentence in this comment is incorrect: the two Urban Reserves are **not** part of the Greenbelt and never have been. They have been "urban reserves" since 1984, when the Greenline strategy was first adopted.

This comment completely ignores all of the other General Plan policies other than the UGB, and also disregards the different physical conditions that are found within the City's Sphere of Influence. The objective says "in locations where the City can most efficiently provide urban services". It does not say anything about the shortest distance to the urban core. The Urban Reserves are generally flat land, proximate to other generally flat lands, that are planned for urban uses and transit access, and to which the extension of infrastructure can be accomplished in conformance with all other goals and policies. They are *Urban Reserves* and not yet designated for urban development already because the City cannot yet provide infrastructure and services without restricting its ability to serve other parts of the City. Both the General Plan and the DEIR assume that extending urban services and allowing urban development in the USA and the urban reserves will be less costly and less environmentally damaging than extending the same development and services into the hillsides.

The DEIR says the following about the conformance of the "Limited Development" Alternative with the second project objective:

"Many of the City's urban services are provided from a central node or require physical extensions of an existing network. Even when new development pays for extending parts of a network, greater burdens are placed on the existing infrastructure by development on the urban edge, and the City as a whole must maintain the entire system over time. Building extended sewer lines that eventually connect to existing mains and the central treatment plant, building streets on the urban edge that feed traffic onto existing roadways, and placing additional storm runoff in streams that flood inner City areas, will disproportionately increase the operating and maintenance burden paid for by the community as a whole, and do not contribute to the City's ability to provide urban services efficiently. The extension of roads beyond the urban fringe can create additional traffic congestion and air pollution in the neighborhoods and urban areas through which they connect."

COMMENT: With respect to the third project objective, the Limited Development Alternative would permanently preserve large tracts of open space in the Greenbelt and therefore preserve surrounding hillsides and other open space lands. As discussed above, while the proposed UGB would make it extremely difficult for urban development to occur in the Greenbelt, it is theoretically possible that, over the long-term, minor development could occur. Therefore, neither the proposed Project nor the Limited Development Alternative preserve 100% of the Greenbelt as open space, but both would significantly limit such development.

RESPONSE: The DEIR states the following:

"An alternative that allows developments in the Greenbelt would, by definition, allow more development than would be allowed by the existing USA in combination with the proposed UGB in the hillsides, wetlands, agricultural areas, and other open space lands outside the USA. Such an alternative would not, therefore, preserve them for the future."

COMMENT: The fourth project objective appears to be a "throwaway" objective by the City. Obviously, the City would require mitigation of any potential hazard that would legitimately threaten the safety of residents in an urban development. As the City well knows, other residential development has previously been approved and constructed in the east foothills, including the Silver Creek Valley Country Club and the California Oaks and Emerald Heights projects. In addition, the DEIR does not include any evidence or data that geologic conditions in the south east foothills significantly differ from geologic conditions inside the proposed UGB.

RESPONSE: The DEIR states the following:

"The east foothills, which comprise most of the non-urban area of the City's Sphere of Influence, are characterized by known earthquake faults, landslide-prone areas, and other geotechnical problems. Steeper slopes are also more prone to erosion and increase the difficulties of maintaining streets and other infrastructure. Greenbelt areas near the northern edge of the City are more likely to contain bay muds, weak soils, and are subject to tidal flooding. Increasing the amount of development outside the USA increases the likelihood that greater numbers of residents and property would be exposed to those hazards."

The foothills and baylands have been designated for non-urban uses for over 20 years in part because they contain the greatest susceptibility to known hazards of any land within the City's Sphere of Influence. Development approved in the east foothills prior to establishment of the Greenbelt continues to require extraordinary effort to maintain access and infrastructure. The DEIR does include evidence that the east foothills differ from areas inside the UGB; a document entitled *Final Report Phase 1A Regional Geologic Study of the Special Geologic Hazard Study Area* prepared by Norfleet Consultants is listed on page 179 of the DEIR.

COMMENT: Accordingly, the Limited Development Alternative would feasibly obtain all of the legitimate project objectives. Please note, however, that, because the Limited Development Alternative is capable of avoiding or substantially lessening one or more significant effects associated with the proposed UGB, the DEIR must examine that alternative "even if [it] would impede to some degree the attainment of the project objectives." Guidelines § 15126(d)(1).

RESPONSE: For the reasons discussed above and in the DEIR, the City and County believe that this alternative would obtain none of the project objectives.

COMMENT: The January 16 Letter also suggests an alternative which provides increased flexibility for modifications of the UGB during the General Plan Annual Review that combine land conservation and creative development, as discussed above. That alternative would include incentives for development proposals which retire or protect key acreage, thereby permanently establishing an urban/rural boundary. While this alternative is similar in some respects to the Limited Development

Alternative, it differs in other respects. However, the City fails to explain why this alternative was not considered in the DEIR.

RESPONSE: The "creative development" idea, that development is allowed in the Greenbelt in exchange for some amount of open space being protected, is discussed at length in the DEIR (on pages 159, 160 and 161). The concept of using easements to protect the greenbelt is discussed in the DEIR (page 170) and is identified as environmentally superior to the proposed UGB. The DEIR concluded that this alternative might be fiscally infeasible, but that discussion is modified by language added in **Section III. Revisions to the Text of the DEIR**, in this Amendment.

COMMENT: 2. The DEIR's Formulation and Analysis of the "No Project" Alternatives is Inadequate.

The "no project" alternative "shall discuss the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future of the project when not approved. . . ." Guidelines § 15126(d)(4); see also County of Inyo v. City of Los Angeles, 71 Cal. App. 3d 185, 201 (1997) (the "no project" alternative must "describe what condition or program preceded the project.").

The two "no project" alternatives in the DEIR abjectly fail this test. The first "no project" alternative assumes that no further development would occur in the entire City. That alternative is nonsensical because there would be no moratorium on development in the City if the proposed UGB is not adopted.

RESPONSE: This comment quotes the CEQA Guidelines as requiring that the No Project Alternative "discuss the existing conditions", which the City of San Jose interprets to mean the conditions as they presently exist.

COMMENT: The second "no project" alternative addresses development under the existing General Plans. The DEIR concludes, without analysis, that "[t]he physical impacts of implementation the City's General Plan without a UGB will be the same as physical impacts of implementing the General Plan with the UGB in place. Id., p. 163.

However, that unsupported position starkly contradicts the overwhelming evidence to the contrary in the City Administrative Record that future urban development in the Greenbelt is inevitable without the UGB and severe restrictions on its modification. The *raison deter* for the UGB is to eliminate the City Council's discretion, as part of its annual review of the 2020 General Plan, to modify the location of the USA boundary line to extend urban services and permit development outside the existing USA. (CAR 1299 (pp. 53-54), 349, 546, 3568) Both City officials and residents acknowledged throughout the prior administrative proceedings that, in the absence of the UGB, urban development would continue to occur in the future in response to excess housing demand. (CAR 79:5-8, 378, 384, 391, 418, 421, 430, 432, 434, 440, 1755) [At the time the UGB process commenced in 1995, Mayor Hammer stated that "[p]ressure to develop at the city's edge is never-ending precisely because an explicit boundary for urban development has not been set." (CAR3568) Council member Fernandes stated the matter succinctly:

"If anyone thinks that the Greenline Initiative is unnecessary, if anyone thinks that the 2020 policy is sufficient, their eyes are closed and their ears are closed, because the pressure to develop these areas I spoke of is with us everyday." (CAR 276:1-9)]

RESPONSE: The statements in this comment that (1) the purpose of the UGB is to "eliminate the City Council's discretion", and (2) "urban development in the Greenbelt is inevitable without the UGB" are both erroneous.

The UGB does not eliminate the City Council's discretion, as acknowledged in another comment in this same letter [on the first paragraph of page 23, part of comment II.E(1)]. The proposed UGB would create a process by which a change in the UGB would only occur in the context of a comprehensive General Plan update, requiring that the implications of such a change be analyzed as part of an analysis of the overall plan. The UGB, in other words, creates a process but does not in any way eliminate the Council's ability to make whatever decision they consider appropriate.

The quotes in this comment from Mayor Hammer and Councilmember Fernandes reflect very accurately one of the concerns that lead to development of the UGB, and which is explicitly reflected in one of the project objectives:

"Provide a greater degree of certainty for residents and property owners regarding the long-term expectations for urban development."

The City did not consider the approval of development in the Greenbelt to be inevitable, it was understood that pressure to develop in the Greenbelt, with the associated controversy and constant uncertainty on the part of the community as a whole, would be inevitable without a clear and unequivocal statement of the circumstances under which a change in the UGB/Greenline would be approved. The City and County do not consider the policies or land use planning principles reflected in the UGB any different than the policies and principles embedded in the existing City and County General Plans.

COMMENT: Astonishingly, immediately after summarily concluding that the "no project" alternative would have no environmental impacts, the City concedes "the annual possibility of future General Plan amendments in the proposed UGB area." DEIR, p. 163. The City's disingenuous argument has undermined the very purpose of the "no project" alternative.

RESPONSE: This comment quotes the DEIR out of context, and therefore misinterprets its conclusion. The remainder of the quote on page 163 of the DEIR is as follows:

"Due to the annual possibility of future General Plan amendments in the proposed UGB area, this alternative would not meet the project objectives; in particular, this alternative does not provide a greater degree of certainty for the general public as to the long-term expectations for urban development; and does not provide additional protection for hillsides, wetlands and agricultural lands." [Italics added]

In other words, the absence of the UGB may appear to be a tacit invitation for continued **pressure** to develop in the Greenbelt, even though such development would

be inconsistent with existing General Plan policies. The UGB clarifies the General Plan policies and gives a clearer message to the public at large.

COMMENT: 3. The DEIR's Analysis of the Three UGB Alternatives is Inadequate. An EIR must "include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project." Guidelines § 15126(d)(3). An EIR must also "evaluate the comparative merits of the alternatives." Guidelines § 15126(d).

RESPONSE: This comment omits the only purpose for including in an EIR a discussion of the alternatives, which is "avoiding or substantially lessening any significant effects of the project" [§15126(d)(1)]. Since there are no significant environmental effects from the project, there is no requirement to identify any alternative in the DEIR other than the "No Project". In analyzing the four additional UGB alternatives, the DEIR surpasses the CEQA requirements.

COMMENT: None of the UGB alternatives satisfies those requirements. The first of those alternatives would reduce the area inside the proposed UGB by excluding those portions of the Silver Creek Planned Residential Community and the Edenvale Redevelopment Area that currently have General Plan designations of "Non-Urban Hillside," as well as the Coyote Valley Urban Reserve.

The DEIR first concludes, employing the same flawed analysis evident throughout the DEIR, that placing the Non-Urban Hillside land outside the UGB would not change the amount of development allowed on that land and would therefore have no environmental effects. DEIR, p. 165. For the reasons set forth above, that conclusion is specious.

RESPONSE: While it is not clear why this comment finds the conclusions are "specious", it is quite clear why the DEIR states that putting land designated for *Non-Urban Hillside* outside the UGB would not change the amount of development allowed on the land. Development allowed on the land now is limited to a maximum intensity of one dwelling unit per 20 acres, a non-urban density, despite the fact that it is inside the Urban Service Area. That is because the General Plan policies that limit development on steep slopes applies equally regardless of where the land is located in San Jose's Sphere of Influence.

COMMENT: The DEIR then concludes that the exclusion of the Coyote Valley Urban Reserve from the UGB would be environmentally superior to the proposed Project because (a) the logical extension of that conclusion would be to remove the Urban Reserve designation and (b) the removal of the Urban Reserve designation would limit that area to agriculture, rural residential and private recreation land uses. *Id.*, pp. 165-66. That reasoning borders on the absurd because, as the City acknowledges in the DEIR, the development of the Coyote Valley Urban Reserve is outside the scope of the 2020 General Plan and the environmental impacts associated with that development were not addressed 'in the General Plan EIR. *Id.*, p. 163. Therefore, the DEIR's analysis is illusory and disingenuous. [It is more than a little ironic that the City steadfastly ignores that the approval of the UGB would end the historic practice of expanding the existing USA to permit urban development in the Greenbelt, while simultaneously claiming that the exclusion from the UGB of the Coyote Valley Urban Reserve, which is itself open space, would result in environmental benefits.

RESPONSE: This comment is unclear and appears to contradict earlier statements. The Coyote Valley Urban Reserve is proposed for inclusion in the UGB, and the DEIR evaluates

the potential impacts of urbanizing the Coyote Valley Urban Reserve, to the extent such impacts can be identified at this time. The DEIR (and the General Plan) do not anticipate that the Coyote Valley Urban Reserve will urbanize prior to 2010 or even 2020, but it is expected to urbanize. In an earlier comment, this same letter complains that the DEIR focuses too much on the impacts of development in the "Intensification Corridors, Urban Reserves and the UGB Interface". [Page 9 of this letter, comment II(C)1.]

The DEIR states repeatedly that development of the Urban Reserves is anticipated by the City's General Plan, which is why they are included in the UGB. The exclusion of the Urban Reserves from the UGB would be to imply that the City does not really expect them to urbanize, which would be disingenuous. To preclude development from Coyote Valley would, however, avoid the impacts from that development, which would mean that the alternative would have less impacts than the project, although it would limit the long-term supply of housing. The DEIR, for the reasons stated very clearly on page 166, concluded that this alternative would be environmentally superior but not compatible with project objectives.

COMMENT: Finally, the DEIR ignores the obvious. If the UGB is tightened, either the density and/or rate of infill development within the UGB will intensify further and/or additional leap frog development will occur to accommodate excess housing demand. The DEIR fails to set forth any meaningful, quantified evaluation, analysis or comparison of the proposed Project and the alternative that would be necessary to evaluate their comparative merits.

RESPONSE: The General Plan does not consider the encouragement of infill development to be an adverse impact. The DEIR does not, therefore, identify the encouragement of infill development which conforms to the existing General Plan to be an unacceptable or adverse impact either.

No justification is given, in this comment or elsewhere in this letter, for why the City should assume that infill development (which has been encouraged by all San Jose General Plans adopted since 1976) will be approved that does not conform to City standards and policies that require mitigation to acceptable levels.

The DEIR does identify, in the conclusion section for each alternative, whether or not the alternative would have greater or less adverse impacts than the existing General Plan with the UGB. There is no requirement in CEQA for a quantified comparison of the project and the alternatives.

COMMENT: The second UGB Alternative would increase the area inside the proposed UGB to include our clients' property. Id., p. 166. The DEIR concludes that, by including that property within the proposed UGB, the eventual development of that property could result in a number of significant adverse impacts. Id., p. 169. The DEIR also states that this alternative would not reduce any of the cumulative environmental impacts likely to result from the implementation of the 2020 General Plan and the UGB. Id.

Once again, the DEIR refuses to address, much less analyze, the comparative environmental benefits of accommodating excess housing demand on a limited basis in the Greenbelt, in lieu of redirecting growth inside the UGB or beyond the City's sphere of influence. The relative environmental benefits

and impacts of the proposed Project and this alternative may be debatable, but the point is that the DEIR does not include any comparative analysis between the proposed Project and any of the alternatives. Moreover, any project specific impacts must be addressed in a separate environmental analysis where mitigations are also discussed. Mundie Report.

The DEIR then concludes, with no explanation, that this alternative is incompatible with five of the six project objectives. For many of the reasons set forth above, that is untrue. *Id.*, p. 169. In particular, since this alternative simply adjusts the proposed UGB, it would provide just as much certainty for residents and property owners as the proposed UGB.

RESPONSE: The analysis of this alternative in the DEIR reflects the problem of assuming that an amendment to an existing General Plan that is inherently inconsistent with many of the policies in that General Plan will somehow have its impacts mitigated by other policies in the General Plan. The DEIR evaluates the relative impacts of the project versus each alternative in the conclusion statement for each alternative, including this one. With regard to the statement that a “separate environmental analysis” must be done for impacts from an alternative, this is clearly not the case. The statement implies that the City must prepare an EIR for all alternatives which are considered environmentally inferior to a proposed project. In addition, the land outside the USA is considered unsuitable for urban development, and the City does not believe that the policies which suffice to mitigate impacts within the USA will necessarily mitigate impacts in the foothills.

The City does not believe that the addition of 2,450 dwelling units allowed by this alternative would have any measurable impact on the region’s housing supply, nor will the development of these units in the hills, with the associated costs of providing infrastructure and mitigating a vast array of environmental impacts, be affordable. The DEIR does state (on page 169) that this alternative might “somewhat reduce competition for housing within the urban envelope”.

There is no clearly identified purpose for including this property in the UGB that would not also apply to most other properties adjacent to the UGB and, once they are included, to the properties that are adjacent to them. Such an expansion of the UGB would allow urban development in the hillsides, and encourage other property owners with similar land to believe their properties could also support urban development. The UGB as proposed includes virtually all of the lands capable of supporting, or suitable for, urban development (as defined by existing General Plan policies) within its boundaries. It therefore constitutes a clear and consistent statement of what the City considers to be developable land.

COMMENT: The third of the UGB Alternatives would preclude minor modifications of the proposed UGB except as part of a comprehensive update of the 2020 General Plan. *Id.*, p. 170. The DEIR concludes that this alternative would reduce environmental impacts between updates of the 2020 General Plan. *Id.* This alternative would further restrict urban development in the Greenbelt, but the DEIR ignores that this restriction would further intensify infill development within the UGB and/or result in leap frog development.

RESPONSE: The conclusion of this alternatives impact is fully consistent with the analysis found throughout the DEIR.

COMMENT: F. The DEIR's Analysis Of Growth Inducing Impacts Is Inadequate.

An EIR must "[d]iscuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly in the surrounding environment." Guidelines § 15126(f) (emphasis added). In a four-sentence discussion, the DEIR summarily dismisses any possibility of growth inducing impacts, stating that the proposed UGB "will not allow any more development inside the USA than is already allowed by the City's General Plan" and "will not create any precedent that will encourage or enable growth outside existing urban boundaries." DEIR, p. 176.

The City's abbreviated analysis is fundamentally flawed for a number of reasons. First, the City again ignores that the central purpose of the proposed UGB is to put an end to urban development in the Greenbelt to accommodate excess housing demand, and that the inevitable result is to redirect growth that otherwise would continue to occur in the Greenbelt to locations inside the UGB or outside the City's sphere of influence.

Second, the DEIR falsely assumes that the 2020 General Plan restricts residential growth to 52,900 units. However, as the City is well aware, the 2020 General Plan projects the construction of 52,900 residential units through the year 2020, but does not prohibit additional residential development.

Third, the City forcefully argues earlier in the DEIR that leap frog development will not occur precisely because the City can accommodate more than 52,900 residential units inside the UGB. *Id.*, pp. 155-57. The City cannot have it both ways. If the City is correct, than residential development in excess of 52,900 units can be accommodated inside the UGB, but the environmental impacts associated with those additional units were not analyzed in the General Plan EIR or the current DEIR.

For these reasons, and as more fully set forth in the Landis Report, the Knapp Report and the Smith Report, the DEIR's growth inducing impacts analysis is facially inadequate.

RESPONSE: This comment contains a number of factual errors. It is not true that the "central purpose of the proposed UGB is to put an end to urban development in the Greenbelt to accommodate excess housing demand". The objectives of the UGB are clearly stated on page 31 of the DEIR and are also reiterated in this same comment letter [page 23 of the letter, comment II(E)1]. Neither does the City believe that the UGB will "redirect growth that otherwise would continue to occur in the Greenbelt to locations inside the UGB or outside the City's sphere of influence". The City believes that the **existing** policies in the General Plan do not allow for development to "accommodate excess housing demand", or any other kind of urban development, within the Greenbelt.

The DEIR does not assume that the General Plan "restricts residential growth to 52,900 units" and the General Plan does not "project the construction of 52,900 residential units through the year 2020". On page 30, the DEIR identifies mechanisms to increase the amount of housing beyond 52,900, two of which do not require General Plan amendments. As stated throughout the DEIR, the development of 52,900 dwelling units is anticipated to occur between 1995 and a point in time between 2010-2020. More housing could be built than the 52,900 predicted, in conformance with other General Plan policies and only after environmental review occurs for each proposed housing project. Projects inconsistent with General Plan

LOS policies would not be approved since they would not be in conformance with the General Plan.

The UGB will not cause any development. It may encourage development to occur where development is planned to occur, but it does not allow or "induce" any development that is not already planned and encouraged.

COMMENT: It is unfortunate and somewhat remarkable that, notwithstanding the decision in the UGB Lawsuit, the City steadfastly refuses to acknowledge that the proposed UGB represents a major shift in land use policy with potentially enormous environmental impacts. As a result, the DEIR not only fails to provide any analysis regarding the environmental impacts associated with the proposed UGB, the DEIR conceals its true purpose.

The foregoing comments on DEIR are not minor quibbles. The DEIR is fundamentally flawed and, we believe, would not survive judicial scrutiny. Our clients respectfully request that the City revise the DEIR to comply with CEQA and recirculate the document..

RESPONSE: The City and County have made a good faith effort to disclose those impacts which might reasonably be assumed to result from the adoption of an urban growth boundary that closely approximates and reinforces existing near-term restrictions on development in San Jose's Sphere of Influence.

* * * *

The following letters were received with the previous letter from the law firm of Sheppard, Mullin, Richter & Hampton, representing the owners of the Richmond and Young Ranches.

12. RESPONSES TO COMMENTS RECEIVED FROM MUNDIE & ASSOCIATES DATED JUNE 29, 1998

COMMENT: Mundie & Associates (M&A) is a consulting firm that provides services related to the economics of land use. Founded in 1981, M&A has a practice that includes preparation of CEQA documents (e.g., Environmental Impact Reports and Negative Declarations) as well as economic and fiscal background studies for planning, fiscal impact analyses, and planning strategy studies. Key staff members hold masters degrees in planning, and each has more than 25 years of professional experience. Resumes for key staff members who contributed to the analysis described in this memo are appended.

As you requested, we have reviewed the Draft Environmental Impact Report for the Greenline/Urban Growth Boundary, prepared by the City of San Jose and Santa Clara County ("the DEIR"). Based on this review, we have concluded that the DEIR does not meet the requirements of the California Environmental Quality Act (CEQA) to provide information about the proposed adoption of an Urban Growth Boundary (UGB) that would be established by the City of San Jose for the expressed purpose of "identifying the long term limit for urban development and extension of urban services within the City of San Jose" (p. 1 of the DEIR). Our conclusion is based on the following problems with the DEIR:

1. The DEIR Focuses on the General Plan, not the UGB. It consequently fails to consider the reasonably-foreseeable environmental impacts of the adoption of a permanent UGB. This problem is discussed beginning of p.3 of this memo.

RESPONSE: As discussed in response to additional comments below, the City believes that the DEIR does evaluate the likely impacts of the UGB.

COMMENT: 2. The DEIR Does Not Evaluate the Impacts of a UGB. The DEIR never acknowledges the differences in the pattern of growth that could occur after the establishment of a permanent UGB compared to those possible under the current General Plan, which regulates the outer limits of urban development by means of an adjustable Urban Service Area (USA). The differences are explained beginning on p. 4 of this memo. Following that explanation, this memo estimates the amount of development likely to be dislocated by the establishment of a UGB and the distribution of that dislocated development between infill and "leapfrog" sites. Beginning on p. 9, this memo identifies the likely environmental impacts of infill development that were not addressed in the DEIR; beginning on p. 12, it identifies likely environmental impacts associated with leapfrog development, which also were not discussed in the DEIR.

RESPONSE: This letter writer errs in assuming that some amount of urban development would have to occur in the Greenbelt. General Plan designations on properties currently outside the USA allow low intensity non-urban uses. The "amount of development" estimated by the letter writer to be "dislocated" from the Greenbelt is totally arbitrary and represents no defensible planning assumptions about the City or County's past or present policies. The DEIR does address the impacts of infill which are likely to occur in San Jose, based on the type and amount of development that is allowed by the General Plan and the City's own experience in encouraging and approving infill development for over 20 years.

COMMENT: 3. The DEIR implies that additional infill development will accommodate all units that could have been located in an expanded USA, but does not demonstrate that infill development is actually achievable. This memorandum discusses the physical and market conditions that are required to achieve infill development (beginning on p.13), and then questions whether the approaches identified by the DEIR for increasing the supply of infill sites will actually be effective.

RESPONSE: The General Plan currently limits urban development within the USA. Since the concept of an "expanded USA" is totally hypothetical and arbitrary, any estimate of what amount of development it could accommodate is irrelevant. Land use planning, particularly a long term General Plan, is not based solely on market considerations, but must include the community's reasonable goals and policies and a recognition of the limitations imposed by the physical environment. The discussion of whether or not planning for infill development will be "effective" assumes that only developers should decide where development occurs, which assumption is inappropriate.

COMMENT: 4. The DEIR classifies the impacts associated with leapfrog development as secondary impacts, and inappropriately dismisses them as beyond the scope of this EIR or "speculative." This memo explains why the impacts of the project are primary, rather than secondary, impacts, and provides detailed discussions of four problems with the DEIR's

characterization of these impacts as "beyond scope" and "speculative." This section of the memo begins on p. 19.

RESPONSE: This letter does not effectively communicate, here or on page 19, why impacts over which the City and County have no control or authority and which will occur whether or not the project is approved as proposed should be characterized as primary.

COMMENT: 5. The DEIR does not compare conditions with the proposed project to existing environmental conditions. After citing the section of the CEQA guidelines that requires comparison to existing conditions (rather than to future conditions under the current General Plan, as this DEIR purports to do), this memo identifies (beginning on p. 22) the types of information the DEIR should have presented to provide a baseline for comparison of future conditions with the project, and consequent identification of significant impacts.

RESPONSE: The DEIR repeatedly identifies the project's impacts compared to (1) existing conditions; and (2) conditions assumed to occur under the existing General Plan.

COMMENT: 6. The DEIR does not provide current information about existing conditions. This section of the memo (p. 26) reiterates that whatever information about existing conditions appears in the DEIR is not current; instead, it is copied from the General Plan EIR, which was published in 1994.

RESPONSE: As can be surmised by a review of the References section of the DEIR (page 178), the DEIR includes a number of source documents which have been prepared since the General Plan update and its EIR were prepared.

COMMENT: 7. The DEIR does not adequately address growth-inducing impacts. The DEIR dismisses the growth-inducing impacts of the proposed UGB in four sentences. This memorandum describes (p.26) the topics that should have been covered in an adequate discussion of growth-inducing impacts.

RESPONSE: The letter writer's opinion as to the growth inducing potential of the UGB notwithstanding, the City and County believe that the UGB will reinforce existing growth management policies, focusing growth in areas planned for urban development.

COMMENT: 8. The DEIR definition and analysis of alternatives is inadequate. As discussed beginning on p. 27 of this memo, the DEIR does not consider any meaningful alternatives that are not based on the UGB concept, and inappropriately dismisses the "limited development" alternative that you suggested in response to the Notice of Preparation as environmentally inferior.

RESPONSE: Although the absence of significant environmental impacts identified in the DEIR means that the alternatives discussion is provided only for information purposes, the DEIR does make a good faith effort to identify several reasonable alternatives that might also support the identified project objectives.

COMMENT: 9. The DEIR does not address the significance criteria that it establishes for defining impacts. Although the DEIR identifies criteria that would define the thresholds for significance of impacts, it almost never provides the information necessary to apply those criteria, and does not address them in most sections of the DEIR. This section of the memo, beginning on p. 34, discusses significance criteria for land use, transportation, and air quality. Treatment of other significance criteria is discussed in an appendix to the memo.

RESPONSE: The City of San Jose consistently uses significance criteria in EIRs. The criteria identified in this DEIR are similar to those used in other EIRs prepared by the City and allow decisions makers and members of the public to compare other General Plan Amendments and development proposals. The significance criteria are used throughout the DEIR and all conclusions about the significance of impacts are based on the criteria.

COMMENT: 1.. The DEIR Focuses on the General Plan, not the UGB.

The purpose of the UGB, as indicated by the project objectives (DEIR, p. 11), is to establish a perimeter beyond which new urban development will not occur. This perimeter is intended to provide a long-term boundary between those lands that would receive urban services and lands that would not. The fact that a UGB is required to provide this boundary is *de facto* evidence that, absent such a boundary, the urban area would continue to expand in response to the need for housing and residential support services that are associated with San Jose's growing employment base.

RESPONSE: This comment misrepresents the first project objective and, in addition, the conclusion is inaccurate because it focuses on only the first of the listed project objectives. The first objective does not anywhere state that the UGB would "establish a perimeter" of any kind. The language of the first objective accurately represents the purpose of the UGB, which is to "more clearly distinguish" between lands planned and reserved for urban development and those intended to remain rural. By saying that the UGB is intended to "establish" a boundary, the intent of the UGB is significantly and inaccurately changed.

The second objective, for example, reads:

"Create assurances that the growth management policies are seriously and thoroughly evaluated before any change in these policies is entertained."

The City acknowledges that proposals will continue to be made to expand the urban boundary and believes that citizens and neighboring property owners should share a common understanding that such changes will be carefully evaluated.

The third objective says:

"Provide a greater degree of certainty for residents and property owners regarding the long-term expectations for urban development."

In other words, the urban boundary is a real limit line, but the importance of the policy needs to be emphasized, particularly based on the continuing pressure from property owners in the Greenbelt.

The likelihood of the urban area expanding is less "*de facto*" than the likelihood that pressure for such expansion will continue, with its associated controversy and concerns from citizens, and that such proposals will continue to be denied by the City based on its existing policies. Further, since urban development is already prohibited in the areas outside the proposed UGB, it cannot be assumed that urban development would ever be allowed in these areas with or without the UGB.

COMMENT: Nevertheless, the DEIR asserts (p. 21) that "the proposed UGB simply reinforces existing General Plan policies which limit development outside the USA [urban service area] . Therefore, the amount of planned development does would not change with the adoption of the UGB." This assertion ignores the inevitable consequence of adopting a permanent UGB: that it would alter the *locations* of new development by prohibiting development in the next logical locations - that is, adjacent to already developed neighborhoods on the edge of the urban area, where much development has historically occurred in San Jose - and consequently forcing that development, which is needed to accommodate forecast growth in San Jose, either to infill sites or to more distant locations, beyond the San Jose Sphere of Influence (SOI).

RESPONSE: The City does not believe that the UGB will "alter the locations of new development", or that the "next logical location" is in the Greenbelt. The City has been encouraging and approving infill development for over 20 years, since adoption of GP '75. As stated quite clearly in the DEIR (on page 21), there is a plentiful supply of vacant land within San Jose's USA/UGB as of July 1997. In addition to the vacant land, there is a significant quantity of underutilized land and property with aging or economically non-viable uses. San Jose believes that development at these locations is "inevitable", given the existing General Plan policies. As a result, the DEIR assumes that development will occur at these locations and analyzes the likely environmental impacts of that development. The comment assumes that urban development could be accommodated outside the UGB. As indicated earlier, that assumption cannot be made:

COMMENT: Relying on the assumption, quoted above, that the UGB would simply reinforce the policies of the 2020 General Plan ("the General Plan"), the DEIR frames its discussion of environmental impacts in terms of the General Plan: throughout, it compares conditions with future development as permitted by the General Plan *with the UGB* to conditions with future development *without the UGB*. Thus, virtually every impact statement in the DEIR begins with the phrase, "Implementation of the City's General Plan . . ." or "Implementation of the City's General Plan with or without the UGB..... Similarly, text in the various "Impact" sections of the report states, typically, some topically-appropriate variation of, "These impacts are the result of development of lands in conformance with the existing General Plan, and do not result from the creation of a UGB." (This quote from p. 25, in the Land Use section of the DEIR.)

As a result, this DEIR does not consider the impacts of this project, which is adoption of a permanent UGB, on the pattern of development that was addressed in the General Plan EIR and the

environmental conditions that are affected by the changes in that pattern that the UGB is intended to cause.

RESPONSE: While this comment is not clear, it appears to be saying that the DEIR should have evaluated the impacts of the UGB on the General Plan instead of evaluating the impacts of the General Plan with the UGB in place. Since the City is not proposing to adopt the UGB as a freestanding policy, but is proposing to add it to an existing and functioning General Plan, such an approach would have been inappropriate. The difficulty of evaluating an amendment to an existing General Plan is acknowledged in the Preface to the DEIR. It is difficult to distinguish the incremental differences that might result from implementing the General Plan if it includes a UGB versus what might occur if the General Plan did not include a UGB. Nevertheless, that is the analysis which the DEIR includes.

Regarding the last sentence in this comment, the UGB is **not** intended to cause changes in the "pattern of development that was addressed in the General Plan EIR". As the location of the UGB would indicate, and as the project objectives and the DEIR state explicitly, the UGB is intended to reinforce and support existing policies in the City and County General Plans.

COMMENT: 2. The DEIR Does Not Evaluate the Impacts of a UGB.

To satisfy the requirements of CEQA, the DEIR must evaluate the reasonably-foreseeable impacts of adopting a permanent UGB on the pattern of development and the consequences of the resulting pattern of development. The DEIR does neither of these: instead, it denies that the UGB would have any effect on the pattern of development, and then relies on that assertion to refute the possibility of any consequent impacts.

Impacts on the Pattern of Development

Background: Differences between the General Plan as Adopted and With a UGB

The General Plan establishes an Urban Service Area (USA), which is intended to define the area within which urban services will be provided and, therefore, urban development may occur. The Plan allows for modifications to (including expansions of) the USA by means of General Plan Amendments, which may be considered in the City's annual General Plan review process. The DEIR (p. 5) states, "Generally, the USA line marks a near term horizon and functions as a short-term growth boundary." The DEIR footnote to this statement references Government Code Section 56080, which defines a USA as "all lands within a city's sphere of influence that are served by urban services or proposed to be served by such services *during the first five years of a city's capital improvement program*." (Emphasis added.) This definition of a USA is added to the General Plan by the amendments proposed as part of the project (see Appendix A, unnumbered page following the heading "Urban Service Area Boundary").

The UGB, in contrast, would be a permanent delineation of the boundary between urban and non-urban, and could not be moved except during a comprehensive General Plan update. The DEIR states (p. 1) that this boundary is intended to "identify the long term limit for urban development and the extension of urban services within the City of San Jose."

The DEIR distinguishes between the USA and the UGB on p. 6: *"The USA is a near- to mid-term urban limit line, the UGB is proposed as a long-term urban limit line."* (Emphasis in original.) Nevertheless, the UGB and the USA are congruent in virtually every location, except that the USA does not encompass the two Urban Reserves defined by the General Plan and the UGB does. (See DEIR Figure 2, p. 3.) One of these Urban Reserves, Coyote Valley, is not expected to be developed during the time frame of the General Plan, and impacts of development there are not covered in the General Plan EIR. *Therefore, the only significant difference between the near-term USA boundary and the long-term UGB is the exclusion of the South Almaden Valley Urban Reserve from the USA. Therefore, the UGB as delineated in the City's proposal effectively establishes the USA, which has a five-year horizon, as the permanent boundary for urban development until a comprehensive General Plan update is completed.*

For reasons discussed below, it is not reasonable to assume that all development seeking to locate in San Jose during the term of the General Plan can be accommodated within this boundary. The impact of the boundary, therefore, will be displacement of development from the area that would have been encompassed by expansions of the USA to either (1) infill locations within the UGB or (2) "leapfrog" locations beyond the San Jose SOL.

RESPONSE: The UGB does not establish the USA as any kind of "permanent boundary", nor is the UGB itself defined as a "permanent" boundary. A comprehensive General Plan update can be initiated at any time (including within five years) and the UGB can then be changed. The differences between the two concepts that are discussed in this comment are procedural differences which will clearly ensure that a thorough analysis of impacts takes place as part of any consideration of changing the UGB.

The last paragraph is unclear. There is no requirement that San Jose accommodate all development "seeking to locate" in San Jose, nor does the City anticipate ever being able to do so. Even the earliest General Plans did not assume that any and all development had to be accommodated. A General Plan, by definition, places limits on the amount of development a jurisdiction anticipates and wants to accommodate, and on its location, and its character. San Jose does not believe that any development will be "displaced" by the UGB. There is development allowed now in the Greenbelt, primarily non-urban hillside and rural residential uses. That development will also be allowed with adoption of the UGB. Since the UGB includes within it all land which the General Plan defines as suitable for urban development, no development allowed by the General Plan will be "displaced" or precluded by adoption of the UGB. Infill development that is currently encouraged by the General Plan will still be allowed, and "leapfrog" development, which is defined in the DEIR as outlying development within the City or County, will still be precluded by the UGB. Development outside San Jose's Sphere of Influence, which has been occurring since the early 1970s, may continue to occur if the jurisdictions where it is occurring do not adopt growth limits themselves.

COMMENT: Estimate of the Amount of Development that Would Be Dislocated by Adoption of a Permanent UGB

Based on the information that is available in the DEIR and the General Plan EIR, the demand for housing in San Jose will exceed the physical and market capacity of lands within the UGB, and both

types of dislocation effects - that is, -infill and leapfrog - will occur. This conclusion is based on the following evidence:

The General Plan projects development of 52,900 housing units.

The Plan would accommodate these housing units in the following inventory of development sites (General Plan FEIR, Table 5, p. 11):

Location	Units
Existing vacant residential lands (1992 General Plan)	35,000
South Almaden Valley Urban Reserve	2,000
Non-vacant lands designated for or allowing for residential	6,000
Converted non-residential lands (Converted Sites)	3,300
Intensification corridors (Intensification Corridor Sites)	6,600
Total	52,900

The General Plan projection falls short of expected demand for new housing units in San Jose.

Even when the General Plan was adopted, it was not intended to accommodate all of the households that were then expected to locate in San Jose. At that time, the regional forecast for the Bay Area was *Projections 92*, published by the Association of Bay Area Governments (ABAG). Those projections anticipated that San Jose would gain 62,854 new households between 1990 and 2010 (General Plan EIR, p. 62).

Projections 92 did not extend beyond the year 2010. To provide a complete evaluation of the Plan, the General Plan EIR should have extended the projection through the year 2020; instead, it assumed "as a conservative 'worst case' that the anticipated development being evaluated would occur by 2010" (DEIR, p. 4)). In fact, this assumption is not a conservative worst case, because it does not consider the full amount of development that would be expected to occur over the entire period of the Plan.

To accommodate the 62,854 households requires more than 62,854 new housing units: housing markets require some vacancy factor to assure their smooth operation. A vacancy rate of five percent is generally accepted in the industry as the factor that is necessary. To provide for all the households anticipated through 2010, therefore, would have required San Jose to adopt a General Plan that provided for approximately 66,000 housing units. Therefore, even when the General Plan was adopted, it anticipated 13,100 fewer housing units *through the year 2010* than were indicated by the ABAG projections. These "extra" housing units would either have to have been accommodated in expansions of the USA or by more intensive development of the infill sites within the USA (vacant lands, Intensification Corridors, and Conversion Sites), or would have gone to "leapfrog" sites beyond the San Jose Sphere of Influence.

ABAG Projections 98, the current set of regional forecasts (published in December, 1997), clearly identifies a shortage of housing sites in San Jose (text, p. 204). *Projections 98* forecasts an increase of nearly 79,800 households in San Jose between 1990 and 2020, including 60,980 new households between 1995 and 2020. Allowing a five percent vacancy rate would require more than 64,000 additional housing units just for the growth expected between 1995 and 2020. This increase would require 11,100 "excess" housing units (that is, units in excess of the number anticipated in the General Plan). (Even with no additional vacancies, the number of new households would exceed the number of new units anticipated in the General Plan.)

The DEIR (p. 156) says that ABAG projections "reflect a demand for 51,360 dwelling units" during "roughly" the time period "after 1995 and before sometime between 2010 and 2020." In fact, as noted above, *Projections 98* forecasts an increase of 51,360 households between 1995 and 2010, and an additional increase of 9,620 households between 2010 and 2020, for a total of 60,980 new households in San Jose between 1995 and 2020. To characterize this projection as applying to housing units, rather than households, is to imply that there is no need for vacant units, which are required to assure smooth operation of the housing market. As noted above, five percent is the generally-accepted vacancy factor, and applying that factor to the ABAG forecast of households yields an estimate of need for more than 53,900 housing units between 1995 and 2010, and more than 64,000 units between 1995 and 2020.

RESPONSE: This comment points out itself that the City's General Plan "was not intended to accommodate all of the households that were then expected to locate in San Jose". The comment is internally inconsistent since, if the General Plan would not accommodate them, then the housing for those households could not be built in San Jose, but it does accurately reflect the understanding that the existing General Plan does not guarantee that everyone that wants to locate in San Jose will be able to do so.

As reflected in the discussion at the beginning of the responses to comment [Section IV(A)(2) of this Amendment], the ABAG projections are developed as regional estimates and are most accurate at the regional level. San Jose uses estimates which also reflect the amount of vacant and developable land within its jurisdiction, past and current patterns of development, and the City's own goals for itself. Therefore, San Jose believes that approximately 52,900 dwelling units can and will be developed under the auspices of the existing General Plan, through a time period that will end sometime between 2010 and 2020, in conformance with all applicable General Plan policies. ABAG figures estimate that approximately 51,360 dwelling units will be developed in San Jose's Sphere of Influence through the year 2010. ABAG estimates that 60,980 dwelling units will be developed through 2015. Given the time period over which these forecasts are being made, the numbers are reasonably close. They will probably be refined over time, as will the City's own forecasts.

Should development trends and practices over the next 12 years indicate that housing is being developed at a faster rate than San Jose's General Plan anticipated, there are a number of ways in which San Jose can respond, as listed on pages 30 and 31 of the DEIR.

Most communities, including San Jose, do not base their land use planning practices solely on market trends. San Jose has made a good faith effort to accommodate a fair share of regional housing demand within its Sphere of Influence, and the adequacy of that effort has been recognized by the State of California in accepting the City's housing element as meeting the requirements of State law.

The numbers in this comment, like the numbers in the ABAG estimates and the City's own estimates, all reflect a certain element of uncertainty about what amount of housing will be needed and built in the future.

COMMENT: Whereas the USA system would allow expansion of the area available for development via a relatively simple process, the UGB system prohibits modification of the boundary absent a full General Plan Update.

The proposed text amendment to the General Plan that implements the UGB states (DEIR Appendix A, unnumbered page under the heading "Modifications to the Greenline/Urban Growth Boundary"), that the Greenline/Urban Growth Boundary is intended to be the ultimate limit to urban development in San Jose, and that all urban development should occur within this boundary. The DEIR goes on (same page) to establish conditions that must be established before significant modifications to the UGB may be considered. These conditions include

*Consideration of significant modifications only during a comprehensive update of the General Plan involving a community task force similar to the San Jose 2020 General Plan Update process.

*A finding by the City Council that (among other things) (1) the City's fiscal condition is stable, predictable, and adequate in the long term according to a five-year economic forecast for the City which projects a balanced budget or budget surplus for each of the forecast years and (2) the City is able to effectively provide and maintain urban services to existing residents and businesses at 1993 levels based on thorough fiscal analysis.

The General Plan update process occurs only periodically (typically not more than once per decade; the 2020 General Plan is only the second update since the mid-1970s) and typically takes several years (the 2020 Plan process was begun in 1992, and the Plan was adopted in 1994). Therefore, it is reasonable to expect that the UGB that is adopted now will be in place at least through the end of this decade, and perhaps through the year 2020 (the horizon year of the General Plan). With no date certain for the next update of the General Plan, the DEIR should properly evaluate the impacts of the UGB through that year (2020).

Given current legal constraints on the ability of local governments in California to collect revenues, it is unlikely that cities will ever again be able to demonstrate a "stable, predictable, and adequate" fiscal condition for five years into the future, especially if they are required to demonstrate that such a condition can be achieved with delivery of services at the level attained in any prior year (e.g., 1993). Therefore, it seems optimistic to anticipate any future change in the UGB once it is established.

Thus, *at a minimum*, housing in excess of the 52,900 units accommodated on sites designated for residential development in the General Plan - that is, the 11,100 "excess" units calculated above (64,000 to accommodate the additional households anticipated by *Projections 98* minus 52,900

anticipated by the General Plan) - will be dislocated either to infill sites, which will have to be developed at higher densities to accommodate those units, or to leapfrog sites. This estimate is conservative, because it does not reduce the General Plan estimate of 52,900 units by the amount of development that has occurred since that estimate was made (e.g., 6,700 units built between 1994 and 1997; since the background work for the General Plan was prepared before 1994, it is likely that additional units were built between the time that work was completed and 1994).

RESPONSE: See Section IV(A) for a more detailed discussion of the assumptions in the General Plan and DEIR on housing capacity in the City's Sphere of Influence.

Some of the assumptions in this comment are flawed. As discussed in Section IV.(A)(2) of this Amendment, there is quite likely to be a new General Plan update prior to 2010. Since the City must and will do an update of its housing element in 2000, it may decide to do a comprehensive update at that time. It is highly unlikely that the City's housing capacity will be fully used up prior to the next update.

The comment then implies that, since cities cannot any longer demonstrate a "stable, predictable, and adequate" fiscal condition for five years, additional housing should be approved without being subjected to such a condition. Development of housing in excess of a community's ability to serve it would not be environmentally superior to the proposed UGB in any context. If the City cannot serve the housing, it will not be approved at infill sites, where existing LOS policies will preclude intensified development. It will certainly not be approved in the Greenbelt, where the cost of building and maintaining infrastructure and urban services would be significantly greater than in the existing USA, and which would also not be in conformance with existing General Plan policies.

If future experience leads to the conclusion that the precursor conditions are inappropriate for any reason, the ordinance and policies can be changed, subject to further analysis, public scrutiny and subsequent CEQA review.

COMMENT: Estimate of the Geographic Redistribution of Development that Would Be Dislocated by Adoption of a Permanent UGB

The distribution of the dislocated units between infill sites and leapfrog sites may be estimated based on the commute patterns of San Jose workers indicated in the U.S. Census (the most recent comprehensive data source). According to the 1990 Census, approximately 64 percent of workers employed in San Jose lived in San Jose, and the remaining 36 percent lived in other communities. [Note that the percent of workers employed in San Jose who also live in San Jose declined slightly between 1980 and 1990, from 66.5 percent to 65.8 percent. This decline indicates that San Jose did not provide sufficient housing opportunities to maintain its 1980 jobs/housing balance for workers employed in the City over the decade of the 1980s.] Applying this distribution to the "excess" units identified in the preceding paragraph yields an estimate of 7,100 units that would be jammed onto existing sites within the UGB, leaving 4,000 units to be dispersed to other communities beyond the UGB.

When we evaluated the UGB proposal for you in 1996 (in comments on the Negative Declaration), we assumed that 64 percent of the displaced units would locate on infill sites. That assumption was

based on the proportion of workers employed in San Jose who also work in San Jose, as indicated in the 1980 U.S. Census. If we were to maintain that assumption in this case, then 7,100 additional units would have to be accommodated on infill sites.

What we did not recognize that time, however, was that all of the displaced "excess" units would have been occupied by San Jose workers who live in the City; in other words, if any of the units were displaced to leapfrog sites, then the proportion of San Jose workers able to find housing in San Jose would decrease. This perception is important, because it means that (1) the UGB will require greater intensification of development on infill sites than we originally thought in order for San Jose to maintain its jobs/housing balance for people employed in the City and (2) regional impacts of a UGB would be even greater than we originally thought, because - unless all 11,100 households locate on infill sites- it would mean that a greater proportion of San Jose workers will have to commute long distances, adding to regional traffic and air pollution.

(The General Plan document states that Plan Alternative 5, which would have accommodated 58,300 new housing units within the City, would have been acceptable under San Jose's traffic performance standards (with mitigation) and was recommended by the General Plan Task Force, but that this alternative was rejected by the City Council in favor of the adopted 52,900 unit Plan that was ultimately adopted. Assuming very conservatively that the additional 5,400 units (the difference between 52,900 and 58,300) could be absorbed onto existing sites within the UGB (e.g., through General Plan Amendments that modify the development capacity of various sites), then San Jose would still have an expected 5,700 "excess" housing units (64,000 needed to accommodate the new households anticipated by *Projections 98* minus 58,300 accommodated by an amended General Plan consistent with Alternative 5). Of those 5,700 "excess" units, 3,650 would be expected to locate within the City.)

For the potential infill development to be realized - that is, for units dislocated from the edges of an expanding USA actually to be developed on infill sites - two fundamental conditions must be met: (1) the City must have physical capacity to accommodate them and (2) housing consumers must be willing to occupy them at the prices and densities at which they are offered. Neither of these conditions is demonstrated in the DEIR, as discussed on pp. 13-14 of this memo.

RESPONSE: This entire comment is based on a concept of "displaced units", a hypothetical construct that postulates development in the Greenbelt. As stated previously, no development is being dislocated from the Greenbelt because no urban development is planned for the Greenbelt.

San Jose and Santa Clara County have changed significantly since the 1970s and 1980s. Most of the new housing being built in San Jose is at a higher density than the 6,000 square foot single family lots that were prevalent in the 1970s. Because of the impacts of the development patterns followed in the past, Santa Clara County is experiencing traffic congestion, air pollution, and noise impacts, and has lost much of its agricultural and open space lands. Because of these conditions, San Jose and other communities in the region are planning for different kinds of development for the future.

Residential planned developments approved in San Jose over the last five years has averaged 22.5 dwelling units per acre. With the exception of Evergreen, most of the

development being approved in most of the City is at densities of 10 du's/acre or greater. San Jose's infill policies, in place for over 20 years, are being realized throughout the City.

The exact number of dwelling units that will actually be built cannot be precisely predicted; fluctuations in the economy and changes in the housing market are only two of the factors that influence development trends. Since San Jose is part of an urban region, it is true that San Jose cannot guarantee that workers in San Jose will buy houses in San Jose; it is also true that San Jose has provided most of the housing built in the County for many years, and continues to do so. To the extent that most workers will buy housing as close to their jobs as they can afford, and since San Jose provides for the greatest number and variety of housing in the County, workers in San Jose have the greatest opportunity to find housing near their jobs.

In response to the footnoted statement that San Jose failed to provide sufficient housing opportunities between 1980 and 1990 to maintain its jobs/housing balance, it is more accurate to state that other communities added such disproportionate numbers of jobs that the ratio in San Jose could not be maintained. Most of the housing built in the County during that time period was in San Jose.

See also the discussion in Section IV(A)(2) and (3) of this Amendment for an explanation of the assumptions related to housing needs reflected in the DEIR and General Plan.

COMMENT: Environmental Impacts of Increased Infill Development

If more intensive development on the infill sites *can* be achieved, then it will have predictable environmental impacts. These impacts, discussed below, were not considered or evaluated in the DEIR; instead, the DEIR simply asserted that any environmental effects would be the same as those identified in the General Plan EIR.

The DEIR should have addressed the following impacts of the UGB project:

Land Use

1. Increased amount of development on infill sites. The increased amount of development that could seek to locate on infill sites is estimated above at between 7,100 and 11,100 housing units, depending on the proportion of dislocated development that seeks infill (as opposed to leapfrog) sites.

RESPONSE: This comment assumes that the lands outside the UGB would be suitable for urban development thus increasing the City's potential residential land supply. As indicated earlier, this assumption cannot be made since these lands are environmentally sensitive and already identified by the City as unsuitable for urban development. The numbers included in this comment are artificial constructs, as stated previously.

The DEIR evaluates the impacts of developing the remaining vacant land in San Jose, as well as intensification and redevelopment in locations such as the Intensification Corridors.

Should the City decide to follow any of the alternative actions listed in the DEIR on pages 30 and 31 in order to increase the amount of residential development allowed in the City, appropriate CEQA review will be prepared to evaluate the impacts of the proposed actions.

COMMENT: 2. Altered locations of intensified development. With a UGB in place, some residential sites must be developed at higher densities (unless all development displaced by the project is exported to leapfrog sites) than anticipated by the General Plan. Further, the need for more intensive development may alter the comparative economic feasibility of residential construction among locations. Thus, some sites that would have been too expensive for residential development at lower densities will become feasible at higher densities (because the higher land costs are spread over a greater number of units), and development on them will become possible with a UGB in place. The DEIR should provide some discussion of the effects of a UGB on the distribution of new development within the urban area, which will in turn affect the locations of intensified traffic congestion demand for new public services.

RESPONSE: It appears from this comment that the letter writer is assuming the City will approve infill development proposals at random, regardless of General Plan land use designation or LOS constraints, just because a developer requests the approval. Although the City has an established practice of approving more intense development at infill locations, it does so only in the context of the existing General Plan land use designations and policies. The DEIR prepared for the UGB and the FEIR prepared for the adopted General Plan both evaluated the impacts of intensified infill development which the City's existing General Plan is specifically intended to encourage. The two EIRs assumed that infill development, all infill development, will take place in conformance with the General Plan. It was not assumed that the UGB will cause infill development to occur that does not conform to the General Plan because, in accordance with City policy, the City will not approve infill development that does not conform to the General Plan. The DEIR did assume that intensified urban development would continue to be proposed and approved at the levels and amounts described in the General Plan and DEIR.

COMMENT: 3. Adverse effect on the City's ability to provide affordable housing and meet its fair share requirement. This effect will produce physical impacts related to longer commutes for low-and moderate-income households. The DEIR states (p. 155):

In San Jose, most of the housing that is currently considered "affordable" is multi-family residential and older housing stock. Virtually all of the new housing affordable to households with below median incomes now being built is receiving some form of government subsidy. This is considered unlikely to change as long as the economy remains strong. It is also possible that increased competition for infill housing could cause the cost of such housing to increase. These are market driven economic issues, however, and are too speculative to warrant further discussion in this EIR.

In fact, this effect is reasonably foreseeable and is not at all speculative. Absorption of the supply of sites for residential development will cause increases in the prices of remaining sites (because, with no timely supply competition, the only penalty for asking higher prices for developable sites is the possibility of getting even more money later). As prices increase, (1) the prices of non-subsidized units increase, putting them further out of reach for low- and moderate-income households, and (2) the amount of subsidy required to bring prices into the affordable range increases as well. As a result, a given amount of public sector money available to subsidize affordable housing loses purchasing power. As a result, the City will be less able to assist low- and moderate-income households in finding housing they can afford, and those households will be forced to seek alternate housing at more distant locations. Thus, the impacts of the UGB will be (1) adverse effects on San Jose's ability to meet its fair share housing requirements and (2) increased regional impacts on traffic, air quality, and other conditions affected by leapfrog development.

RESPONSE: It is also stated in the DEIR (on the page just before the quote in this comment) that:

“To the extent that the UGB encourages infill development, much of which is higher density and/or multi family residential, the supply of affordable housing may be incrementally improved. Most of the new housing that is being built in the suburban neighborhoods is single family detached residential that is not affordable to households with lower than median incomes. Housing built on the urban fringe is generally more expensive than housing built on infill sites because of the cost of extending infrastructure.”

As long as there was a plentiful supply of cheap land available for low density development, more housing was built on the urban fringe. As the supply of land suitable for urban development been reduced, higher density housing in infill locations is being built in greater numbers. San Jose anticipates that this is the condition that will exist into the future.

COMMENT: This effect was demonstrated in Modesto in the mid-1970s. In an effort to control infrastructure expenditures (before Proposition 13 effectively shifted those costs to the private sector), Modesto adopted a growth policy that opened new areas to growth only as the existing supply of developable sites was fully absorbed. Mundie & Associates staff found that prices of sites designated for single family residential development had doubled within about three years, resulting in a tripling of prices for the identical home.

To claim that the anticipation of price increases for infill housing is speculative, the DEIR must first demonstrate that the supply of sites within the UGB is abundantly adequate to accommodate all new demand projected by ABAG during the planning period, including an ample allowance for new vacant units and adjustments to reflect that (1) less than 100 percent of all designated sites will actually be available for development during the planning period and (2) new development does not always occur at the maximum densities permitted. Only in this situation, where effective supply competition remains strong, is it possible to think that the price of land will not increase substantially.

RESPONSE: This comment is inaccurate. Modesto's experience notwithstanding, there is no guarantee of what the future economy will be in Santa Clara County. Despite the abundance of land available for development in the 1970's and 1980's, the price of

housing rose steeply. Despite the strong economic conditions of the late 1980's, the early 1990's saw a pronounced decline in housing prices. Based on the experience of planning in San Jose and Santa Clara County for the last 30 years, it is likely that economic conditions, housing prices, building patterns, development trends and other economic factors will change in the future. The City includes within its General Plan a number of mechanisms for responding to changes, and a number of ways of increasing housing supply (see pages 30 and 31). The inverse of this cost, that having an abundant supply of vacant land will keep housing prices from escalating, has clearly not been the case in the past.

COMMENT: 4. Increased rate of development on infill sites. An increase in the rate of development is acknowledged in the DEIR (p. 153: "With incrementally less likelihood for growth to occur outside of the UGB in place, the time frame for planned infill development might be accelerated, as compared to the time frame for the infill development without the UGB in place."). In dismissing the possibility that timing would have any effect on environmental impacts, the DEIR (p. 154) does not consider that different timing of development will in fact affect the City's ability to provide public services with a physical component (fire protection, parks, schools) on a more rapid schedule.

RESPONSE: An impact happening slightly sooner does not change the impact. Significant quantities of housing are not built overnight; all new development is subject to CEQA review and it is the City's policy to ensure that "background" conditions include approved but not yet built development in CEQA analyses. New development is keyed to availability of services under the City's LOS policies. In certain circumstances (e.g., the Levin/Shea project called "Basking Ridge") development may even have to build or finance infrastructure such as a fire station to provide the necessary services.

COMMENT: 5. Conversion of prime agricultural land to non-agricultural use. A primary reason for new development that would have located in San Jose to locate instead in more remote locations is the desire of housing consumers to occupy single family, detached housing units in conventional subdivisions (in preference to more intensive development arrangements that would be possible within the UGB). The DEIR should (1) estimate how much land would be absorbed by conventional single family development that is dislocated to leapfrog locations assuming that it is built at densities that are typical for those locations and (2) discuss the likelihood that this development would be located on prime agricultural lands, given the presence of such lands in the planning areas affected.

RESPONSE: As discussed in Section IV(A)(1) of this Amendment, there are a number of possible ways in which other jurisdictions and home buyers may act in the future. Since home buyers that want large lot single family houses in a particular price range have been buying and commuting to outlying locations for years, that pattern may continue. To the extent that other jurisdictions are encouraged by San Jose's example to adopt a growth boundary or other growth management policy that limits the development of large lot single family houses on agricultural land, the pattern may be less common in the future. Regardless of which of the possible alternatives individuals and other jurisdictions may choose to follow, San Jose does not believe that addition of a UGB to its existing General Plan will **cause** development on farm

land in the Central Valley. This is particularly true since the amount of development allowed on land outside the proposed UGB will not change. No development will be “dislocated” by adoption of a UGB.

COMMENT: Traffic

The increased amount of residential development, and the altered locations of that development, will alter the traffic conditions that were projected in the General Plan EIR. The traffic analysis must recognize that the geographic distribution of new development within the UGB may be different from the distribution within the current USA without the UGB. Given these inevitable differences brought about by adoption of a permanent UGB, the traffic analysis from the General Plan EIR is not adequate or appropriate. The DEIR should include a relevant traffic analysis.

RESPONSE: As stated in response to the Sheppard, Mullin letter and in response to the letter from Smith Engineering, no new development is allowed by the UGB and infill development cannot occur at any location that is not designated for such development. No justification is given, in this comment or elsewhere in this letter, for why the City should assume that infill development (which has been encouraged by all San Jose General Plans adopted since 1976) will be approved that does not conform to General Plan land use designations, or to City standards and policies that require mitigation to acceptable levels.

COMMENT: Air Quality

Increased development associated with the UGB and the resulting increased traffic congestion will increase the amount of air pollution in San Jose. Especially with the reclassification of the Bay Area as an air quality non-attainment area, the DEIR should address the impact of more intensified development within the UGB on local air quality.

RESPONSE: The development on infill sites is specifically compatible with the adopted *Clean Air Plan* for the Bay Area. The development at close-in urban locations, which can best be served by existing and planned transit, is less likely to generate air pollution than development on the urban fringe. This position is reinforced by the comment letter received from the County’s transit service provider on this EIR [see section IV(B)(2) of this Amendment].

COMMENT: Noise

Higher traffic volumes on San Jose roads will create greater noise impacts than would have been expected with adoption of the General Plan. The DEIR uses the noise analysis from the General Plan EIR (in fact, it includes the General Plan noise study as an appendix), and thus does not consider the effects of altered land use and traffic patterns on noise levels in the urban area.

RESPONSE: As stated repeatedly throughout the DEIR and in responses to comments, San Jose does not believe that there will be, or that there even *can* be significant changes in land use patterns as a result of adoption of the UGB. There are, therefore, no significant changes in noise patterns, different from those likely to result from

implementation of the existing General Plan, anticipated to occur from adoption of the UGB.

COMMENT: Visual and aesthetic resources, and community character

Because development within the UGB will be more intensive, sites will be more crowded and, probably, buildings will be taller. The visual character of San Jose will change. The DEIR does not address these impacts.

RESPONSE: Certainly implementation of the General Plan, with its planned infill and intensification of land uses, will have visual impacts. These impacts are addressed in the DEIR (pages 35-37) and mitigation is identified for them. Since the UGB cannot result in different infill development than is allowed by the existing General Plan, unless the General Plan is modified and CEQA analysis is done for the modification, the visual impacts of infill development with a UGB in place will not be different than from the existing General Plan.

COMMENT: Sensitive habitats (e.g., creekbeds and wetlands).

The need to achieve higher densities within the UGB will encourage development closer to whatever sensitive habitats remain in the City. The DEIR does not provide information about the presence or absence of specific sensitive habitat areas, such as creek- and streambeds, within the proposed UGB, particularly on sites available for residential development (whether vacant or subject to conversion or intensification of use).

The DEIR does note (p. 84) the presence of some areas with potential burrowing owl habitats and (p. 87) some with heritage trees. It does not, however, identify the locations of these habitats and trees relative to potential development sites. Notwithstanding this lack of specific information, the DEIR concludes that adoption of the UGB would have no impacts on sensitive species (p. 86) or ordinance-sized trees (p. 87).

RESPONSE: This comment ignores the discussion of the likelihood of Special Status species on page 83. It also ignores the statement on page 84 that the Intensification Corridors do not contain natural plant communities, but may result in impacts to birds protected by the Migratory Bird Treaty Act. Page 85 identifies the presence of riparian corridors and wetlands in areas likely to support infill development, as well as the presence of special status species in these areas.

The DEIR addresses the potential for impacts from implementation of the General Plan with a UGB at the program level. It does not ever claim to be a project-level document. Future developments will need to prepare site-specific assessments of potential impacts to special status species, riparian habitats and wetlands, and address mitigation of their impacts in conformance with relevant laws and policies. Development within the UGB is more likely to avoid significant impacts to sensitive species and their habitats than development outside the UGB, where, as indicated in the Existing Setting section of the DEIR (page 75 *et. seq.*), most of the remaining sensitive species and their habitats are still found.

COMMENT: Exposure of residents to seismic and geologic risks.

More intensive development could mean that more households are exposed to soils subject to liquefaction, and that more households occupy units in areas potentially subject to inundation from tidal waves, seiches, or dam failure. The DEIR does not discuss the relationship of changes in land use patterns to these environmental conditions.

RESPONSE: The land within San Jose's Sphere of Influence is not considered subject to tidal waves or seiches. Encouraging the location of households within the UGB will result in development that avoids lands most susceptible to dam failure and seismic risks (*i.e.*, south Coyote Valley and the east foothills). Urban development of lands outside the UGB poses greater environmental risks and creates potentially greater adverse effects than urban development of lands within the UGB.

COMMENT: Increase in residential densities on sites affected by hazardous materials.

This risk is of special concern on the Conversion Sites.

RESPONSE: The potential for hazardous materials impacts to infill development on "Conversion Sites" (which is assumed to mean redevelopment of previously developed properties) is addressed on pages 70-72 of the DEIR.

COMMENT: Adequacy of location-specific public facilities, such as parks and schools.

Because housing development will be at higher intensities than anticipated in the General Plan, the use of public facilities such as roads, parks, and schools will be more intensive as well. The DEIR does not estimate the amount of additional park acreage or number of additional school sites that would be needed to serve the additional population that would live in areas characterized by more intensive development than anticipated in the General Plan.

The General Plan (p. 70) calls for 3.5 acres of neighborhood- and community-serving park land per 1,000 residents, of which up to 2 acres may be school playgrounds, all within reasonable walking distance of [new residential projects]. Based on an estimated 7,100 additional housing units within the City, San Jose would need 78 acres of neighborhood- and community-serving parks, of which 33 acres would be free-standing and 45 acres could be in school playgrounds.

The General Plan does not include a quantified estimate of public school students per household, presumably because school facilities planning is primarily the responsibility of the San Jose Unified School District. An estimate derived from data contained in the 1990 U.S. Census is that San Jose had an average of 0.64 students per housing unit. Assuming that one-half of the students are of elementary school age, then the additional 7,100 housing units that would be displaced to infill sites could house approximately 2,270 elementary school students. The number of schools required to educate these students depends on design standards for the district, but elementary schools are typically designed for 600 to 1,000 students and occupy 10 acres of land (5 for the school and 5 for the playground). Based on these standards, 2,270 additional elementary school students would require construction of between two and four more schools than anticipated by the General Plan, occupying 20 to 40 acres of land within the USA.

One implicit consequence of intensification of development in the urban area is that the quality of services for existing residents will decline if additional traffic capacity, parks, schools, and other relevant facilities are not improved to respond to the increased level of use (e.g., traffic congestion will increase, park acreage per capita will decline, school overcrowding will intensify). As a result, delivery of public services at their 1993 levels will be an impossibility, and the "trigger" conditions for development of the City's Coyote Valley Urban Reserves and revision of the UGB during a future comprehensive General Plan update will never be met (see discussion of these "trigger" mechanisms below, on p. 17 of this memo).

RESPONSE: Although decline in services is not an environmental impact, the DEIR describes the likelihood for environmental impacts to result from the development assumed to result from implementation of the General Plan with a UGB, including the impacts associated with increased demand for public systems (starting on page 147).

The General Plan FEIR addressed the need to provide sufficient services for the anticipated growth of 52,900 dwelling units. The development of public facilities, such as fire stations or more public schools on vacant land within the UGB is unlikely to cause significant adverse environmental impacts.

This comment postulates a scenario in which infill development causes such a strain on public services that the triggers for developing the Urban Reserves cannot be met. Since infill development places less of a strain on public services than outlying development on the urban fringe, that scenario would result in a condition in which the City would be unable to approve any more development anywhere.

COMMENT: Mitigation measures that must be implemented to reduce the significant adverse impacts of new development projects on traffic, parks, and schools.

The costs of mitigation will be passed on to housing consumers, resulting in additional housing price increases beyond those resulting from higher land prices alone. These additional increases (1) further erode the City's ability to meet its fair share requirements for provision of affordable housing and (2) increase the price of market-rate housing. The consequence of both of these effects will be to increase the proportion of housing demand that will be satisfied by new development in leapfrog locations beyond the City's SOI, and therefore increase the magnitude of regional impacts on traffic, air quality, and the conversion of prime agricultural land to non-agricultural uses.

RESPONSE: This comment is unclear. Cost is not an environmental factor and does not need to be addressed in an EIR. All development generates demand for services and other impacts which, under San Jose's existing General Plan, must be mitigated by the development. This is true for residential and non-residential development, and for infill development as well as for development on the urban edge. Increased costs for urban services increases the cost of all housing. The only alternative is not to allow any additional housing. Housing at outlying locations must pay more for services than infill housing because of the increased cost of extending or constructing all new facilities. The cost of providing services to new housing is unlikely to cause potential home buyers to live in distant counties and, if it does, is an insurmountable obstacle which all jurisdictions must face.

COMMENT: Environmental Impacts of Increased Leapfrog Development

If there is insufficient physical capacity to accommodate anticipated demand within the UGB, or if the densities and prices of development that could occur within the UGB are unacceptable to housing consumers, then the housing that would have located at the edges of an expanded USA will not locate on infill sites; instead, it will be dispersed to remote locations beyond the San Jose SOI.

For the DEIR not to recognize and evaluate these potential effects, and the associated regional effects of housing dispersal on traffic, air quality, and the conversion of agricultural land to urban uses, is indefensible in light of the fact that the DEIR is intended to serve as the CEQA document for Santa Clara County's actions in support of San Jose's establishment of a UGB.

At a minimum, 2,050 housing units would be expected to be dislocated to leapfrog sites. This estimate represents the commuter proportion (36 percent) of the excess of expected demand over the General Plan Alternative 5 capacity (58,300 units), which was calculated above (see p. 7 of this memo). At a maximum, all 11,100 units displaced from the edges of the urban area would be dislocated to leapfrog sites, either because San Jose could not effectively increase its development capacity above the 52,900 new housing units expected by the General Plan, or because housing at increased densities is not attractive to housing consumers, or a combination of the two.

The DEIR did not consider the environmental impacts of the dispersal of these units. These impacts would include:

Increased conversion of agricultural land to non-agricultural uses.

Residential development that locates on leapfrog sites is most likely to be detached single family housing. This housing type dominates in the communities of Santa Clara, San Benito, and Santa Cruz counties to which the displaced housing would be dispersed. Given lower land prices in these areas than in the San Jose area, development densities tend to be lower. As a result, a given number of housing units will occupy a greater amount of land.

Further, many of the development sites on the edge of the San Jose USA are on soils or topography that are not well-suited to agriculture, and therefore support only low-intensity agricultural uses (if any), while the sites available in the more remote locations are typically flat, and better suited to cultivation.

For these reasons, increased conversion of viable agricultural land to non-agricultural uses is a foreseeable impact of the UGB project, and should have been addressed in the DEIR.

Increased congestion on regional traffic routes.

The displacement of housing to more remote locations will increase traffic on regional transportation routes. Regional routes with particular congestion problems include the two-lane (in each direction) sections of U.S. 101 south of San Jose and State Route 17 between the-Santa Clara Valley and Santa Cruz.

The DEIR should have recognized the impacts of housing dislocation on traffic by projecting the increased traffic volumes on the regional routes and evaluating their impacts on traffic conditions.

Increased regional air pollution.

Increased traffic and traffic congestion associated with the increased residential development on leapfrog sites will create adverse impacts on air quality beyond those anticipated by the General Plan EIR. The DEIR should have estimated the increases in regional air pollution associated with the dislocation of housing development to leapfrog sites.

Increased energy consumption.

Increases in the length and time of commute trips that result from the dispersal of new housing to leapfrog sites will also increase energy consumption. The DEIR should have recognized this concomitant impact.

RESPONSE: This comment starts with an hypothesized number of housing units that would be “displaced” from the Greenbelt by the UGB. The basic assumption is false. The comment is basing its premise on a number that was identified during the last General Plan update as being a *possible* number of dwelling units that *might* be accommodated by the City’s General Plan. The act of deciding what percentage of this hypothetical number of dwelling units would be built in outlying counties because San Jose and Santa Clara County adopt a UGB is meaningless. The City’s General Plan does not now allow urban development in the Greenbelt and neither does Santa Clara County’s General Plan, and the adoption of the UGB would not preclude the non-urban development that is currently allowed. To claim that a specific number of dwelling units will be built at an arbitrary location because San Jose once evaluated the possibility of accommodating a different number of dwelling units within its Sphere of Influence is not a meaningful analysis of potential impacts, it is random guesswork.

San Jose has designated for urban development all of the remaining vacant land it considers suitable for urban development, and has included that land within its UGB. It is not reasonable or consistent with existing General Plan policies to pretend that development potential of land designated for non-urban hillside uses is somehow being reduced by the proposed enactment of a UGB and the development must therefore automatically occur someplace. The DEIR evaluates all of the impacts that are considered likely to occur as a result of implementing the General Plans with a UGB in place. The DEIR even discusses the potential for development to occur outside the County as a result of the exportation of housing demand. While some housing development may indeed occur outside Santa Clara County because more single family detached housing on large lots is not being built in San Jose, it is not possible to predict how much or where such housing will occur. San Jose does not believe that there is any more land suitable for such development in its Sphere of Influence that is not already in the USA or the Urban Reserves. For these reasons, as stated in the DEIR, the discussion of Secondary Impacts in the DEIR concluded that further discussion of these potential impacts was meaningless and speculative, and did not discuss these issues in any more detail.

COMMENT: 3. The DEIR implies that additional infill development will accommodate all units that could have been located in an expanded USA, but does not demonstrate that infill development is actually achievable.

The DEIR states (p. 153):

Assuming that the economy remains strong and that growth will continue to occur in the greater San Jose area, it is reasonable to assume that continuing present policies to limit urban growth *outside* the UGB will increase the pressure for urban growth *inside* the UGB, all other factors being equal. However, as explained below, such infill growth inside the USA is already planned for and encouraged by both the City and County General Plans. (Emphasis in original.)

This statement implies that infill development is not only desirable and achievable, but that it will allow the City to accommodate all of the growth that has been forecast during the period covered by the General Plan.

RESPONSE: The City believes that infill development is desirable and achievable and that the amount of development forecast for the General Plan can be accommodated by the General Plan.

COMMENT: Background: Conditions Required to Achieve Infill Development

As noted above (p. 8), two fundamental conditions must be met in order for the City to realize potential infill development: (1) the City must have physical capacity to accommodate additional units and (2) housing consumers must be willing to occupy them at the prices and densities at which they are offered.

Adequate physical capacity is created when the amount of land effectively available for development that is, not constrained by physical conditions such as steep slopes, wetlands, improper soils, presence of sensitive habitats or toxic materials - is designated for development by the City's General Plan and zoning map for the number of housing units that will be needed to accommodate the number of additional households (including a vacancy factor) expected to move to the City. As described in detail above, the General Plan does not provide adequate physical capacity for the development that would be required to accommodate households anticipated by ABAG's *Projections 98* through the year 2020, which is the horizon year of the General Plan.

RESPONSE: As discussed in detail in Section IV(A) subsections (2) and (3) of this Amendment, the City does not believe that ABAG's projections for San Jose's housing growth through 2020 are accurate. San Jose's projections for a point in time slightly beyond 2010 are very close, however, to ABAG's projections for 2010. The City does provide adequate physical capacity for the amount of development projected by ABAG through 2010, and may be able to accommodate more housing units than the 52,900 assumed by the General Plan, using one or more of the mechanisms described on pages 30 and 31 of the DEIR. San Jose has never contended that it could provide "adequate physical capacity" for the growth projections made by ABAG through 2020.

COMMENT: Neither the General Plan, the General Plan EIR, nor the (UGB) DEIR details the amount of land available by density range. None of these documents, therefore, provides the information that is needed to know at what densities development is permitted on the sites designated by the General Plan for future residential development.

RESPONSE: It is assumed that this comment is referring to the need to know the amount of vacant and/or redevelopable land available within specific density ranges. The DEIR lists the City of San Jose's *Vacant Land Inventory Report*, updated as of October 17, 1997, as a source document. That report, which is available on request, does categorize vacant land in the City by density range. Some of the higher density housing anticipated will occur on land that is currently designated for commercial uses, mixed uses, or is not vacant. The City anticipates that much of the future higher density development will occur on these infill and redevelopment sites, similar to the recently approved Town and Country Village project, which proposes to develop 1,200 dwelling units plus a new commercial project on a property designated *Regional Commercial* and currently occupied by an aging shopping center. The assumptions that went into the City's estimate of housing capacity are available for review in the office of the Planning Division at City Hall during regular working hours.

COMMENT: Regardless of the densities currently assigned to various residential sites, the physical capacity of the General Plan could be increased by increasing the densities of development permitted on those sites. As noted above, however (p. 7 of this memo), the General Plan process rejected Plan alternatives that would have accommodated a greater number of housing units in the City. Three of the five alternatives - all of those that would have accommodated more than 58,300 additional housing units - were rejected in part because they would have violated the City's traffic performance standards.

RESPONSE: The alternative scenarios evaluated during the General Plan update process included a number of variations, such as housing at various locations. The alternative scenarios were eventually rejected for a number of reasons: some had significant traffic impacts, some had other environmental issues, others did not meet the City's economic goals. Due to the scale of the review, the update did not look at all of the possible sites for additional residential development. The approved *San Jose 2020 General Plan* did increase the number of dwelling units accommodated within San Jose's Sphere of Influence to a number that could be shown to be compatible with other goals and policies. The adoption of that alternative does not mean that there are not other variations that would also work. San Jose's General Plan is reviewed and amended every year. Most years, the City adds some residential capacity based on information provided with individual proposals.

COMMENT: Households seeking to live in San Jose may or may not be interested, however, in living in residential development projects or neighborhoods that exceed certain density thresholds. Because the DEIR does not provide information about the densities of existing neighborhoods or recent development projects, or about the densities of development that would have to be achieved to accommodate projected growth, it is not possible to assess whether new infill development at the densities assumed would gain market acceptance. If the densities are acceptable to the market, then

infill development will be achieved; if they are not, the amount of development dispersed to leapfrog locations will be increased.

RESPONSE: The General Plan identifies the densities of existing and planned housing development. Information about densities of recent development projects is readily available from the City. Residential planned developments approved over the last five years have averaged 22.5 dus/acre; the majority of residential development now being proposed in San Jose is processed as planned developments. The higher density housing ranges from small lot single family dwellings to townhouses and high density condominiums and apartments. It is assumed that most future housing development will continue to fall within those types. As described in Section IV(A)(1) of this Amendment, entitled "What direct adverse environmental impacts were attributed to the project, and why?", there are actually a number of possible outcomes that could result if San Jose does not plan for "enough" housing, or enough of the "right kind" of housing. One of the outcomes could be that the people who work in Silicon Valley will increasingly be people who are prepared to live in slightly higher density housing in order to not make long commutes; another might be that people would look elsewhere for jobs and employers will locate somewhere else.

COMMENT: Integral to the density issue for market acceptability is the issue of price: consumers compare the amount of housing they can purchase (or rent) in various locations at the price they can afford. If outlying (leapfrog) locations offer housing that more closely resembles the type (including density and unit size) they most desire at lower prices than are available in San Jose, then households are most likely to occupy the housing in the outlying locations.

Because the supply of housing sites in San Jose is exceeded by the potential demand for sites, the establishment of a permanent UGB that precludes an increase in physical capacity through the addition of land to the residential supply will create pressure for increased densities of development on infill sites *if increased densities are acceptable to the market*. If infill development at increased densities is achievable, then the impacts of that development (described above, on pp. 8-12) must be evaluated in the DEIR.

RESPONSE: There are actually a number of factors that enter into the choice of housing, as discussed in the DEIR (page 156). Infill development is occurring at increased densities in San Jose, and has been gradually increasing for many years, in conformance with the City's General Plan. The DEIR describes the impacts of such infill continuing, at the locations and at the densities provided for in the General Plan.

COMMENT: At the same time, increased pressure for development sites will create upward pressure on land prices, which will be passed along to consumers (to the extent possible) in the form of higher housing prices, higher densities, or both. At some point, the densities that must be achieved to cover the higher price of land will exceed the densities that are acceptable to the market, and future development will spill out to leapfrog sites. The environmental impacts of this leapfrog development (described above, on pp. 12-13) must also be evaluated in the DEIR.

RESPONSE: While San Jose does not anticipate extensive development at the densities found in some urban areas (such as New York or San Francisco), this comment is clearly not universally true. The forces discussed in this comment are economic and market driven and too speculative in nature for extensive discussion in an EIR.

COMMENT: (1n)Effectiveness of Approaches Identified by the City for Increasing the Supply of Infill Sites for Residential Development After Adoption of a UGB

The DEIR identifies (p. 156) a variety of approaches to increasing the supply of sites for housing after adoption of the UGB. The potential effectiveness of these approaches is subject to question, for the reasons discussed below. Because they are subject to question, they raise doubts that a significant amount of intensification (above the 52,900 additional units provided for in the General Plan) can actually be achieved. Approaches are listed below in italics; questions follow each approach:

(a) Development on land already designated for residential uses at the higher ends of the allowed density ranges.

Neither the General Plan nor the DEIR provides any information about the density that was assumed for development in each density range, information that is essential to demonstrating that increases above those assumed in the derivation of the 52,900 unit estimate are indeed achievable.

The information presented in the DEIR (although regrettably incomplete) implies that recent development on infill sites has not taken place at the higher end of the allowed density ranges. The General Plan (p. 12) shows 5,340 acres of land designated for single family development and 1,105 acres designated for multi-family development. DEIR (p. 21) shows 3,413 acres of vacant land designated for single family residential development and 940 available for multi-family residential development. Neither document indicates the density category distribution of the vacant land; therefore, it is impossible to know what the average density of development would have to be in each case to achieve an increase of 52,900 units. The DEIR does not explain what happened to 1,927 acres of land that were formerly vacant and designated for single family residential use, nor to 165 acres that were formerly vacant and designated for multi-family use. If these 2,092 acres were developed into the 4,228 housing units built between 1995 and 1997 (according to DOF figures), then the average density of development on this land was 2.02 units per gross acre. Such density would not be described as "at the higher ends of the allowed density ranges" except in very few of the City's zoning categories. (If those zoning categories were the only ones developed during this time interval, then there is no demonstrable market support for any assumption that higher-density development on infill sites is achievable.)

The DEIR does not consider (or, more precisely, does not indicate whether it considers) the fact that designating sites as appropriate for development does not itself assure that the site will indeed be available for development, that development will occur, or that it will be occur at the densities permitted. Typically, not all sites are available for development within the time horizon of a planning document are actually developed; reasons may include owner disinterest, legal entanglements, or other obstacles. On those sites that are developed, site specific constraints (such as parcel configuration, need to tie into the abutting circulation system, required setbacks, slopes, and wetlands) often result in densities for new development that are less than the theoretical maximum. Neither the DEIR nor the General Plan indicates any acknowledgment of these

conditions, so it is not possible to conclude whether they were taken into account. To add 43,000 housing units on the vacant 4,353 acres of land identified in the DEIR (allowing for 6,600 on Intensification Corridor sites and 3,300 on Conversion Sites to make up the complement of 52,900 units "anticipated" by the General Plan) would require a density of 9.9 units per acre on every acre available, and greater density if availability obstacles or site-specific constraints come to light.

To demonstrate that development at the higher ends of permitted density ranges could actually be achieved, the DEIR should provide information on allowable densities for the acreage available and recent development patterns on lands in those density categories to inform the reader about (1) whether it is reasonable to expect "development at the higher end of the allowed density ranges," given physical constraints and market acceptance, and (2) how much capacity might be gained by concerted efforts to increase the densities achieved. If increasing densities would require relaxation of City development standards (such as setbacks or street widths, for example), then the public policy, safety, and environmental impacts of those changes should be examined before such adjustments are relied upon for additional housing capacity.

RESPONSE: The number of dwelling units identified as likely to develop under the existing General Plan (52,900) is an approximately average density that assumes neither the lower or higher ends of the density ranges. It is not a true average, in that development occurs nearer the higher end of some density ranges. As stated in previous responses, residential planned developments approved in San Jose over the last five years averaged 22.8 du/ac. It does reflect San Jose's real world experience with residential development in different densities and in different locations. The General Plan methodology that is used to calculate holding capacity and evaluate impacts is compared annually to development trends and practices.

This document is a General Plan, and the EIR is a Program EIR. In addition, the line quoted from the DEIR is not *proposing* to increase development intensities, it is stating that this is one of a number of strategies which can be pursued if the City determines that more housing is needed and can be accommodated than the 52,900 dwelling units already anticipated. There is no requirement for a General Plan to demonstrate the developability and market availability of every site designated in the General Plan. The General Plan uses parameters and standards and makes general assumptions based on past practice and information about areas and neighborhoods. The City of San Jose is well aware that not all properties planned for development are developed during a plan horizon, which is why the General Plan is updated annually.

COMMENT: *(b) Approval of General Plan Amendments that allow higher density ranges on property already approved for residential uses.*

While this strategy is theoretically possible, it is hard to understand why - given the results of the General Plan traffic analysis - such amendments would not cause traffic to violate the City's LOS standards after only a limited number of increases (i.e., increasing the number of permitted units to 58,300, consistent with General Plan Alternative 5). The DEIR provides no analysis that indicates traffic congestion problems identified in the General Plan EIR have been solved. It provides no analysis of the potential locations of new/intensified development, and so does not demonstrate that

the City has adequate infrastructure capacity or location-specific public facilities (e.g., parks and schools) to make approval of density-increasing General Plan amendments feasible.

RESPONSE: San Jose covers a large area (176.6 square miles as of January 1998) and the physical conditions vary greatly within its USA (which is 139 square miles). As planned infrastructure, including transportation improvements, are built, capacity is created in particular areas or neighborhoods. In addition the County is preparing to develop a number of major regional transportation facilities, including expansions of the transit systems, that will help support infill development.

Refer to the discussion under Section IV(A)(2) of this Amendment for the most current numbers on housing capacity within the City's General Plan. The City has already increased densities on certain residentially designated properties since adoption of the *San Jose 2020 General Plan* and will probably do so again.

The DEIR does not say that traffic congestion has been "solved". The holding capacity of the *San Jose 2020 General Plan* was purposely designed to not exceed the capacity of the planned transportation system. Subsequent amendments to the plan have resulted in significant unavoidable traffic impacts. However, the system as a whole will still meet the City's overall LOS D standard, consistent with the General Plan. There is capacity within the system and additional capacity can sometimes be created by localized improvements which can be implemented by individual developments. The City is not proposing to approve such increased densities across the board, and the DEIR does not say that it is. Every year in the annual review of the General Plan, there are proposals to increase residential density on individual parcels. Some of those requests are approved and subsequently developed because it is demonstrated that the local systems can accommodate the development.

COMMENT: (c) *Approval of more development, and/or development at higher densities, in the Intensification Corridors.*

While this strategy is also theoretically possible, the same problem (likely violation of the City's LOS standards) would arise. General Plan alternatives that were rejected would have permitted between 6,650 and 17,000 new units in the Intensification Corridors (compared to 6,600 permitted by the General Plan) in part because they would have violated the traffic standards. The same concerns as noted above apply here: the DEIR does not identify where such additional development could occur, and contains no discussion of traffic conditions or the adequacy of infrastructure capacity and public facilities that serve those locations.

RESPONSE: The General Plan reflects the understanding of the City's staff and decision making bodies of the constraints and opportunities available in San Jose. The Capital Avenue/Expressway Intensification Corridor, for example, is identified in the General Plan as being unlikely to experience significant additional growth in the near term because of known constraints in the transportation system. It is possible that some of the planned regional infrastructure will relieve some of the constraint in the future, but the City does not know when that might happen. Because the General Plan is a long term planning document, the opportunity for intensification in this

corridor is identified as compatible with other City policies, should the LOS constraints be resolved.

The General Plan does not “permit” 6,600 dwelling units in the Intensification Corridors. The City has identified the potential for 6,600 dwelling units to develop in the corridors during the General Plan horizon. That number could be increased where localized conditions would support the development. The DEIR does not identify where such additional development could occur because it is not proposed; again, it is a *possible* strategy which the City could pursue should there be a need to do so.

Since the adoption of the *San Jose 2020 General Plan*, additional housing capacity has been approved through increasing densities on lands already designated for residential use. See the discussion under Section IV(A)(2) of this Amendment for the most current estimates of the amount of dwelling units allowed under the existing General Plan. A good example is the adoption of the Tamien Station Specific Plan, which added 1,225 new dwelling units in the Guadalupe Corridor around a heavy rail station and light rail station.

COMMENT: *(d) Preparation of a Specific Plan for development in the South Almaden Valley prior to, or concurrent with, approval during a General Plan Annual Review of an USA revision to include South Almaden Valley in the USA.*

This strategy would have environmental impacts similar to those associated with allowing new development adjacent to the USA/UGB line: it would allow the expansion of urban development onto lands that are currently in open space or agriculture, and would require the expansion of urban infrastructure to serve those lands. The DEIR does not demonstrate that this approach is environmentally superior to one that allows incremental expansions of the urban area adjacent to existing development that abuts the USA boundary.

RESPONSE: Development in the South Almaden Valley Urban Reserve in conformance with the existing General Plan would be an “incremental expansion of the urban area adjacent to existing development that abuts the USA boundary”. Impacts from development of the Urban Reserve is specifically addressed in the DEIR, including loss of agricultural land (page 28), visual impacts (page 36), scenic routes (page 37), geology and soils (page 45), seismic hazards (page 47), flooding (page 55), historic resources (page 65), hazardous materials (page 71), sensitive habitats (page 84), riparian corridors (page 85), special status species (page 86), etc. Those impacts can be compared to those anticipated from development of the Richmond/Young Ranches [Section V(C) of the DEIR, starting on page 166]. Because the South Almaden Valley Urban Reserve is less steep than lands designated non-urban hillside and includes fewer faults and sensitive habitats than the east foothills, and fewer wetlands and weak soils than the baylands, its development would be environmentally superior to development occurring on lands outside the proposed UGB.

COMMENT: The proposed amendments to the General Plan included in the project the DEIR is supposed to address state (unnumbered page of Appendix A under the heading "South Almaden

Valley Urban Reserve (SAVUR)": "The boundary of this Urban Reserve ... and the portion of the Greenline/Urban Growth Boundary coterminous with it may be expanded as part of the specific plan process." (Underline indicates the amendment to the General Plan.) *This potential for an expanded South Almaden planning area was not addressed in the General Plan EIR and is not even mentioned in the DEIR except in this appendix location, even though it is included in the proposed project.* While the amendment goes on to specify that "the limit of 2,000 dwelling units . . . may not be increased in this process" - thus eliminating the SAVUR as a potential intensification site - the potential for expansion of the SAVUR would have impacts on the potential for agricultural land conversion, which is not addressed in the DEIR.

RESPONSE: The purpose of allowing flexibility in determining the ultimate boundary of the South Almaden Valley Urban Reserve was to allow for an accurate determination of the 15% slope line. This could mean either a smaller or larger area within the UGB, based on the site specific slope analysis done during the CEQA review and Specific Plan preparation for the area. This approach is consistent with other General Plan policies followed by the City in the past. Any expansion of the SAVUR would require separate environmental review prior to City Council approval.

COMMENT: *(e) Approval of a General Plan Amendment during any annual review to allow planning for urban densities on properties in the Coyote Valley Urban Reserve and preparation of a Specific Plan after or concurrent with inclusion of the Urban Reserve in the USA.*

The General Plan EIR explicitly excluded Coyote Valley, because the General Plan states that this area is not expected to develop during the time frame of the Plan. Amendment of the General Plan to permit planning for development of Coyote Valley and inclusion of Coyote Valley in the USA would require full CEQA review. Therefore, the General Plan EIR cannot be cited as providing CEQA review of a Greenline/UGB alternative that would designate the Coyote Valley Urban Reserve for development.

The environmental impacts of opening the Coyote Valley Urban Reserve to new development would be similar to those of allowing or expansion into the South Almaden Urban Reserve, and potentially greater than those of new development adjacent to the USA/UGB line. Because the Coyote Valley Urban Reserve is farther from the core of San Jose than the South Almaden area, development there could have greater cost implications for the provision of non-capital public services (such as fire and police protection) than would development in the South Almaden Urban Reserve or other closer-in areas that could be adjacent to the USA/UGB line.

Both the South Almaden and Coyote Valley Urban Reserves are subject to specific "trigger" mechanisms; that is, criteria that signal their candidacy for development consideration. These criteria are (pp. 151 and 153 of the General Plan):

(1) Issuance of building permits for employment-related development in the North Coyote Valley Campus Industrial Area for sufficient space to accommodate 5,000 new jobs (in addition to the 2,000 jobs that existed at the time the General Plan was adopted).

(2) A finding that the "City's fiscal condition is stable, predictable, and adequate in the long term." This finding is to be based on three conditions:

*A five-year economic forecast that projects a balanced budget or budget surplus for each of the forecast years.

*Provision of City services at or exceeding the level delivered in 1993, throughout the City. The Plan identifies performance standards for the measurement of service levels.

*"Reasonable certainty that the City's basic fiscal relationship with the state or other levels of government will not be significantly altered during the period of the five year economic forecast."

The first criterion, related to job development in the North Coyote Valley Campus Industrial Area, is entirely unrelated to whether there is a single additional site available for housing development in the City. Conceivably, then, even if every designated housing site in San Jose were occupied by residential development at the maximum density permitted, no development would be possible in the Urban Reserves unless the North Coyote Industrial Area had gained 5,000 jobs in addition to those existing at the time the General Plan was adopted.

The second criterion, related to fiscal health, is unlikely ever to be achieved without massive reform of local government finance in California. As noted earlier in this letter, the intensification of residential development that is anticipated as a result of the UGB project is also likely to assure that 1993 levels of service are never regained. Especially because this criterion is unlikely to be met, to hold out development in the urban reserves as a strategy for increasing the supply of land for residential development is misleading and disingenuous.

RESPONSE: This comment contains a number of inaccuracies. The General Plan EIR did not "exclude" the Coyote Valley Urban Reserve in any way. It did not address the urbanization of Coyote Valley because the General Plan did not assume that the triggers for developing the Coyote Valley Urban Reserve would be met during the General Plan horizon. Because the Coyote Valley Urban Reserve is included in the UGB, this DEIR does address the possibility of urbanization at that location. It is still not assumed that urbanization will occur prior to 2020. Approval of a specific plan for Coyote Valley and its inclusion in the USA will certainly require CEQA review. The impacts of urbanizing Coyote Valley will not be greater than those of "new development adjacent to the USA/UGB line" because Coyote Valley is adjacent to the USA/UGB line. The impacts of urbanizing Coyote Valley, which is generally flat and does not contain extensive geologic hazards, will be less than urbanizing lands in the east foothills or baylands.

The cost of providing urban services is not an environmental issue, but the risk of extending infrastructure to the Coyote Valley Urban Reserve, which will not require that the infrastructure cross unstable soils, numerous earthquake faults, historic landslides, Bay mud, or steep slopes, will be less than extending the same infrastructure outside the proposed UGB.

The DEIR does explicitly address the impacts of urbanizing the Coyote Valley Urban Reserve, just as it addresses the impacts of urbanizing the South Almaden Valley Urban Reserve [see the following: loss of agricultural land (page 28), visual impacts (page 36), scenic routes (page 37), geology and soils (page 45), seismic hazards (page 47), flooding (page 55), historic resources (page 65), hazardous materials (page

71), sensitive habitats (page 84), riparian corridors (page 85), special status species (page 86), etc.]. The distance from the urban core is not the only factor impacting the delivery of services; more critical factors include the type of terrain that must be crossed (steep, unstable, wetlands), physical conditions that must be accommodated (slopes, flooding, watershed, endangered species), nature of services that must be provided (protection from wildfires, rescue from earthquake damage), and the effort required to maintain physical infrastructure facilities (landslides, flooding, Bay mud) are all critical aspects of serving and maintaining development at different locations. For example, building a new elementary school is not generally considered a significant adverse environmental impact, unless the elementary school must be protected from adjacent earthquake faults, unstable soils, and wildfires, or it will reduce the habitat of an endangered species.

The last parts of this comment relate to the triggers that must be met before specific planning and development can begin for the Urban Reserves. The need to develop job generating industrial uses in the North Coyote Valley industrial area before planning for development of residential uses in the Coyote Valley Urban Reserve relates more to the cost of extending infrastructure to the Coyote Valley Urban Reserve before the infrastructure is built in North Coyote Valley. The cost would be prohibitive. In addition, it will be difficult if not impossible to provide adequate flooding and drainage improvements to South Coyote Valley before similar improvements are built in North Coyote Valley. However, the City has issued development permits for development in North Coyote Valley that would accommodate 2,200 jobs, indicating that this trigger may be met in the not too distant future. Further, requiring the creation of jobs in the southern part of the City before allowing new residential development, improves the geographic jobs/housing distribution of the City, creating a reverse commute pattern which can reduce traffic congestion.

The letter writer's opinion as to the unlikelihood of municipal financial stability being achieved is acknowledged. It is even more unlikely that such stability would be achieved if the City were to allow unlimited urban development in the Greenbelt, with the associated costs of serving development in areas such as hills and baylands. The nature of Urban Reserves, with the use of triggers before they can develop, is obviously not a guarantee of development; that is why they are called urban *reserves*. The City believes that this approach is environmentally superior to allowing development in outlying locations without prior assurance that the City will be able to serve the development without adversely impacting existing neighborhoods.

COMMENT: *(f) Initiation of a comprehensive General Plan update to: (1) evaluate the need to change the Urban Growth Boundary and (2) consider redesignation of land outside the UGB for urban uses, including residential development, before considering an USA expansion and a General Plan Amendment to increase densities.*

The City could initiate such an update at any time. This approach, however, is a more formidable undertaking than expansion of the USA into a given area via an individual General Plan Amendment. It effectively raises the barrier to realignment of the area within which development is permitted.

RESPONSE: The process proposed for expanding the UGB insures that the City's decision makers have the opportunity to review all of the relevant policies and implications of expanding into the Greenbelt during a comprehensive review of the City's General Plan. This is necessary because such an expansion onto lands identified as not suitable for urban development in a number of places in the General Plan, and which would also not be compatible with existing policies in the County's General Plan, should require careful analysis in conjunction with the direction of overall growth and development related to plans and policies of the City. Since most of these policies are existing, any such proposal to develop in the Greenbelt should appropriately trigger the same type of review now.

COMMENT: *(g) Approval of a General Plan Amendment during any annual review which allows non-residential lands within the USA to be converted to residential uses, if approved by LAFCo.*

Without explanation, it is not clear why such an amendment would be subject to LAFCO approval. Nevertheless, this approach does not seem significantly different from actions (a), (b), or (c), all of which would allow more development within the urban area and all of which would - based on the previous analysis for the General Plan EIR - cause traffic to exceed the City's LOS standards.

RESPONSE: The reference to LAFCO is an error and has been revised (see **Section III. Revisions to the Text of the DEIR**). This action is not significantly different from other actions which would allow more development within the existing USA. It is included because it is an action different from the others listed and demonstrates the range of possible actions which the City could take, if additional residential development were considered necessary and desirable. The number of such actions also rebuts the suggestions in this letter that the only results of the City underestimating the amount of residential development which will occur during the General Plan horizon would be infill development in violation of the General Plan or exportation of housing demand to outlying counties.

COMMENT: This (foregoing) discussion makes it clear that the approaches identified by the City are not likely to yield any meaningful increase in the City's supply of developable residential land if the UGB proposal is adopted. If that is the case, the result would be the dispersion of as much as 100 percent of new housing development in excess of 52,900 units (from the time the General Plan was adopted) beyond the City's SOI, with the corresponding regional impacts on traffic, air quality, conversion of prime agricultural land, and energy consumption described above.

RESPONSE: This comment is incorrect. The objections raised to each of the possible techniques for increasing housing within the UGB were to the absence of specific knowledge as to how each and every one would be implemented immediately. All are viable approaches to increasing housing potential, if necessary. The City does not propose to implement any of them at this time, but believes that some or all of them could be used to increase the amount of housing during the General Plan time horizon, if it were necessary and desirable to do so. Some of the actions will occur, including increased densities on individual properties and changing non-residential designations to residential for individual properties. Such changes are natural and inevitable during the life of a General Plan. Likewise, the City anticipates that the South Almaden Urban Reserve will begin the process of developing prior to 2020.

The City does not believe, however, that all of these actions will be necessary or appropriate.

As indicated by the numbers found in Section IV(A)(2), the City has already increased the amount of housing allowed under the General Plan by increasing the densities on certain residentially designated properties and converting non-residentially designated lands to residential uses, in conformance with existing General Plan policies and standards.

These methods for allowing more residential units within the USA would not be required because of a "displaced" demand from the Greenbelt, however. There is no potential for urban development within the Greenbelt to be displaced, and neither San Jose nor any other community has ever planned to provide housing for every hypothetical household extrapolated from regional housing statistics.

COMMENT: 4. The DEIR classifies the impacts associated with leapfrog development as secondary impacts, and inappropriately dismisses them as beyond the scope of this EIR or "speculative."

Classification of Impacts as Secondary Impacts is Inappropriate

City records document that the USA has shifted outward in the past in response to requests to General Plan Amendments during the City's annual General Plan review, and that the expansions have provided sites for residential development. Without the possibility of further outward shifts, the housing that would have been located on such sites in response to demand for residential development in San Jose must instead be developed elsewhere.

To characterize the impacts identified in the Secondary Impacts section of the DEIR - that is, infill development and increased demand for development outside San Jose's sphere of influence - as *secondary* impacts is misleading because it implicitly denies that the foreseeable result of establishing an immovable Urban Growth Boundary (UGB) is to displace development that would have occurred at the edges of an expanded urban area (as defined by the City's movable USA) to other locations. By stating that adoption of the UGB will reinforce City policies encouraging infill development (p. 153), the DEIR acknowledges relocation of development potential as a primary, direct, intended, and foreseeable impact of the proposed project.

RESPONSE: The City not only "implicitly denies" that the result of establishing the UGB will be to "displace development that would have occurred at the edges of an expanded urban area", it **explicitly** denies that it will have such a result. The DEIR does not identify relocation of development potential as primary, direct, intended or foreseeable. There is no urban development potential in the lands outside the proposed UGB, based on the policies in the existing General Plan. The existing non-urban development potential that does exist for lands outside the proposed UGB will remain.

Although this letter (and others included with it) repeatedly makes the point that the USA has "shifted outward", it should be noted at the same time that it has also been shifted inward. As the City has acquired more information on the slope and

conditions of lands at the edge of the urban envelope, the USA line has been adjusted on maps to reflect that information. Part of the General Plan update included in the *San Jose 2020 General Plan* was a *reduction* of land within the USA, to reflect the lands along the easterly boundary identified as being above the 15% slope line. The point of the various revisions to the USA has been that, as information about the physical conditions of land becomes known and/or as infrastructure has become available to serve lands previously beyond the urban edge, the City has adjusted the USA to be consistent with General Plan policies. This is very different from expanding the USA (or UGB) to allow for development of lands above the 15% slope line that have consistently been defined as unsuitable for urban development.

COMMENT: Dismissal of Dislocation Impacts as "Beyond Scope" or "Speculative" is Inappropriate

The DEIR makes a series of arguments (pp. 155-156) to dismiss the possibility that adoption of the UGB will cause leapfrog development. It concludes the discussion of leapfrog development by stating (p. 157):

"In the near term, there is a plentiful supply of vacant land designated for residential development in San Jose's Sphere of Influence. In the long term, any discussion of the impacts of "running out 'of residentially planned land is too speculative for further discussion."

"Development in other cities and regions outside of San Jose and Santa Clara County lies outside of the jurisdiction and control of the City and County, respectively. If other outlying jurisdictions provide housing that is more financially attractive to employees within San Jose and Santa Clara County, that is a decision which is beyond San Jose's and Santa Clara County's control."

This conclusion is inappropriate for the DEIR, since (1) both the City's projections and the more recent ABAG projections (*Projections 98*) anticipate demand for housing within the time frame of the General Plan well in excess of the City's ability to accommodate it, (2) much of the currently undeveloped 60,000 acres in the Sphere of Influence will be off-limits to development if a permanent UGB is adopted, and (3) there is no time limit on the application of the UGB.

By failing to acknowledge the possibility that housing will be displaced to leapfrog sites and, if it is, denying that the City and County bear any responsibility for such displacement (that is, that the displacement is a foreseeable result of the adoption of a permanent UGB), the City (and County, as a responsible agency) avoids accounting for the regional environmental impacts of such a development pattern. The DEIR's failure to grapple with potential regional impacts calls into question its adequacy to fulfill the CEQA requirement for any action in support of the San Jose UGB that will be taken by the County of Santa Clara.

RESPONSE: The statement that the City's projections anticipate "demand for housing within the time frame of the General Plan well in excess of the City's ability to accommodate it" is incorrect. The DEIR and the General Plan identify the potential for 52,900 dwelling units to be developed between 1995 and a point in time between 2010 and 2020. The City believes that this is the amount of housing that will be developed during that time frame.

The 60,000 acres outside the proposed UGB is currently “off-limits to development”, if “development” in this context means urban development, so the proposed UGB does not change that circumstance. There is no “time limit” assigned to the UGB, so it can be changed or revised at any time that the City believes that a comprehensive update of the General Plan is necessary which, as pointed out elsewhere in this letter, has happened at least every ten years in the past.

There is no housing at urban densities that is presently allowed in the Greenbelt, the land outside the proposed UGB is identified by numerous General Plan policies as not suitable for urban development, so it is the City’s position that no housing would be “displaced” from the Greenbelt by adoption of the UGB. Exportation of housing demand from Santa Clara County is an ongoing phenomenon that cannot be caused by an action that has not yet been taken. The DEIR discusses the possibility that it might be exacerbated by the UGB but, since there can be no direct cause-and-effect identified between the two, concludes that discussion is speculative.

COMMENT: Four arguments are made to refute the potential for leapfrog development as an impact of the UGB. These arguments are discussed, in turn, below:

(a) The concept of leapfrog development has been too narrowly defined in the DEIR.

The DEIR (p. 155) narrowly defines the concept of leapfrog development as a pattern of development that skips over close-in parcels to result in a checkerboard pattern of urban use “all within the same region or jurisdiction.” The DEIR then states that, since development would be prohibited in the greenbelt, leapfrog development cannot occur within the unincorporated portion of Santa Clara County. This narrow definition ignores the fact that new development will leap beyond San Jose’s sphere of influence to distant communities such as Morgan Hill and Gilroy, which are both within Santa Clara County. If the workers who end up living in those southerly communities commute to work in San Jose or the employment centers to the north, then their housing locations are still at “leapfrog” locations; more importantly, they are having even greater impacts on traffic congestion and air pollution than they would if they lived closer to work on sites within the San Jose Greenbelt.

The DEIR acknowledges (discussion on p. 156) the validity of the argument that some households will be forced to live in communities that are even beyond Santa Clara County. That issue is addressed primarily below. The point here is that, by posing its narrow definition of leapfrog development, the DEIR tries to reinforce its assertion that the conclusion that new development will be dislocated to a dispersed set of sites beyond the San Jose SOI is speculative, when in reality it is a direct impact of the proposed project.

RESPONSE: This comment misinterprets the discussion in the DEIR and contains factual errors. The DEIR does not define “leapfrog” development, it identifies the historic definition of the term as it has been used in Santa Clara County. The DEIR then discusses both of the phenomena raised by this comment: leapfrog development (as historically defined) and the exportation of housing demand to distant locations, defined as “other cities and regions outside of San Jose and Santa Clara County”. With regard to the City of Morgan Hill, as explained in **Section IV. Revisions to the**

Text of the Draft EIR, the City of Morgan Hill has already adopted an urban growth boundary. The City of Gilroy is also considering a UGB.

The DEIR does not acknowledge, on page 156 or anywhere else, that some households will be forced by adoption of the UGB to live in communities that are outside Santa Clara County. The DEIR does not say that the discussion of “dislocation” of new development is speculative, and it does not conclude that development could be dislocated from the Greenbelt because urban development is not *allowed* in the Greenbelt under existing General Plan policies.

COMMENT: (b)The DEIR assigns responsibility for leapfrog development to housing consumers, ignoring the City's influence on the supply of market-acceptable housing.

The DEIR asserts (p. 156) that the reason for long-distance commutes to work destinations in Santa Clara County is not because there is a shortage of housing in San Jose, but because of “the willingness of commuters to drive long distances in order to obtain 'affordable' housing of a particular type (such as single family detached housing on larger lots, for example).” This paragraph implicitly concedes that the unavailability of housing *that responds to the desires of housing consumers* results in longer commutes, and explicitly cites as an example the very type of housing that would be discouraged by the proposed adoption of a permanent UGB.

Ironically, it is this dynamic - that employees will make a housing choice based on their willingness to make a longer commute - that has resulted in San Jose's being “housing rich” - a condition that the DEIR uses to justify limitations on new housing development. Workers employed in Silicon Valley, north of San Jose, have for years purchased or rented housing in San Jose because housing closer to their places of work was more expensive than comparable housing in San Jose. As a result, San Jose has served as a bedroom community for the employment centers to the north, precisely because people who worked north of San Jose were *willing to make a longer commute* in order to occupy housing suited to their needs. With the adoption of a permanent UGB, not only will San Jose workers have increasing difficulty finding suitable, affordable housing in San Jose, but the City will also cease to provide affordable housing for the employment centers to the north, where housing is less affordable. As a result, workers employed at Santa Clara County business centers will have to commute farther and farther from the south and east, increasing regional impacts on all environmental conditions affected by commute trips. At a minimum, these impacts will be increased traffic and air pollution; if they are great enough, they will diminish the appeal of Santa Clara County as a place to work, and the County's economy could be threatened.

RESPONSE: The comment is incorrect. The quote from the DEIR is out of context; the next sentence after the sentence quoted is:

“If the desired housing type is not available *at an acceptable price* nearer a source of employment, but is available at a more distant location, employees will make a housing choice based on their willingness to make the longer commute.” [italics added]

The statement that the DEIR refers to commuters to the Central Valley and San Benito County seeking “the very type of housing that would be discouraged by the proposed adoption of a permanent UGB” is completely inaccurate, no matter what

the assumptions are about development in the Greenbelt. The housing which is attracting commuters to the Central Valley and San Benito County is **cheap** housing, large lot single family homes selling for half (or less) of what similar housing sells for in Santa Clara County. Even if San Jose were to reverse its General Plan policies that have been in place for over 20 years and allow development in the hills, it would not be affordable housing that would be built there. The physical conditions above the 15% slope line, with earthquake faults, landslides, endangered species, and no existing infrastructure makes new development in the hills very expensive if it meets only minimum code and other legal requirements. The need to build completely new infrastructure and public service facilities that also are designed for the geotechnical conditions found there (roads, sewer lines, water tanks, storm lines, detention basins, schools, fire stations, parks etc.) further adds to the costs. In addition, such projects would also have to mitigate their "downstream" impacts on existing infrastructure within the USA, such as creeks not improved to handle more stormwater runoff from the hills and sanitary lines not sized to accommodate sewage from development on lands in the Greenbelt.

San Jose became a bedroom community because communities to the north failed to provide housing and because San Jose encouraged housing development, including leapfrog development onto open space and agricultural lands. San Jose's General Plan identifies this phenomenon as poor planning practice and documents the goals and policies that will prevent the worsening of conditions. It is inaccurate to state that the adoption of the UGB will result in San Jose workers having "increasing difficulty finding suitable, affordable housing in San Jose". The UGB does not preclude development of any of the housing currently allowed by the General Plan and, as identified in the DEIR (on page 157), may encourage the development of affordable, infill housing.

COMMENT: (c) The DEIR understates future housing demand and the resulting likely magnitude of future leapfrog development.

The DEIR says that ABAG projections "reflect a demand for 51,360 dwelling units" during "roughly" the time period "after 1995 and before sometime between 2010 and 2020." In fact, this statement misrepresents the ABAG projections, as discussed in detail on p. 6 of this memo: the ABAG projection is for 51,360 new households between 1995 and 2010 including 62,584 new households between 1995 and 2020, which is the horizon year of the General Plan. More dwelling units than households are required to accommodate this growth with a vacancy factor that will allow smooth operation of the housing market and avoid the types of price increases that will drive housing consumers to seek homes in leapfrog locations.

At least as important as a vacancy adjustment for housing units is a vacancy allowance for land designated for residential development. A General Plan that designates barely sufficient (or, in this case, insufficient) sites for new housing effectively gives the owners of the sites that *are* so designated a monopoly position in the market: as time passes, the number of designated sites dwindles, and so does competition in the marketplace. The owners of the remaining sites can increase the prices asked for those sites as much as they want, knowing that anyone who wants to develop housing in San Jose will have to come to them. As the prices of sites within San Jose

become less competitive with the prices of sites in other communities, however, this condition also contributes to leapfrog development.

RESPONSE: This comment quotes the DEIR out of context. The actual statement in the DEIR is as follows:

“San Jose's adopted General Plan provides for development of an additional 52,900 dwelling units during the time period after 1995 and sometime between 2010 and 2020, including development in the South Almaden Valley Urban Reserve. ABAG projections reflect a demand for 51,360 dwelling units during roughly the same time period. Should housing demand grow beyond the amount estimated, the City's General Plan includes the Coyote Valley Urban Reserve, which could accommodate between 20,000 and 25,000 more dwelling units, if certain prerequisite conditions are met.”

This comment implies that the General Plan significantly errs in estimating the amount of housing that could be built in San Jose during the General Plan horizon year, and the ABAG figures should be considered more accurate. The General Plan, because it legally and as a matter of policy establishes the land use pattern that can be developed within San Jose's Sphere of Influence, is correct by definition.

The real assumption implicit in this comment is that, if the General Plan allowed unlimited development throughout the Sphere of Influence, there would be more dwelling units built than the 52,900 addressed in the DEIR. There are a number of problems with such an assumption, not the least of which is that the City could not serve unlimited development, especially in the hills. [Another problem would be that, if the General Plan did not restrict where and what kind of housing could be built, there might be more single family units and a net total of *fewer* total dwelling units than planned for in the General Plan.] Whether or not such a hypothetical situation could ever be realized, the fact is that the City's General Plan has not allowed such a condition in over 20 years and could not allow such a situation without significant revisions to most of its internal policies and goals.

The concern addressed by this comment is actually an existing situation, not a result stemming from adoption of the UGB. Santa Clara County has a great deal of employment, but not enough of the kind of housing that people who are prepared to commute long distances want. The existing San Jose General Plan proposes to add what is identified as an amount of housing that will fit within the existing developable lands and which can be served by infrastructure available through a point in time that will fall between 2010 and 2020. The UGB does not change the physical conditions or other constraints on land suitable for urban development, which are clearly identified in the adopted General Plan. The UGB does not diminish or reduce the amount of housing that can be built on lands which are suitable for urban development. The UGB does not change the amount of non-urban development that can be built on lands outside the existing USA.

The discussion of vacancy rates and market impacts on housing availability and costs does not address impacts of the UGB, it identifies regional problems that exist now.

As discussed in the DEIR, the UGB may encourage development of lands planned for urban uses sooner (page 157), but it does not change the amount of development allowed outside its proposed boundary.

COMMENT: (d)The DEIR disclaims City responsibility for housing supply limitations that displace demand to other cities.

Finally, the DEIR argues (p. 157) that development in other cities and counties beyond the San Jose SOI is beyond the control of San Jose, and the decision of any jurisdiction to provide opportunities for "housing that is more financially attractive to employees within San Jose and Santa Clara County" is beyond the control of the City of San Jose. This statement is only partly true: while San Jose cannot control the decisions of other jurisdictions, it can control its own (as is implicitly acknowledged in the statement, on p. 157, that begins, "If other jurisdictions provide housing that is more financially acceptable . . .").

A decision to plan for fewer housing units than the number of households expected to seek housing in San Jose through the end of the planning period is effectively a decision to contribute to the increased price of housing, which will drive housing consumers to live in more remote locations (with the aforementioned resulting regional impacts on traffic, air quality, energy, and agricultural land conversion). Such a decision is consistent with the City's stated policy of encouraging employment growth over residential development (to even out its jobs/housing balance), because by limiting the supply of housing sites it supports increases in the price of housing, and therefore discourages households in a certain income range from living in San Jose. Implementing this policy through imposition of the UGB cannot, however, be justified based on environmental superiority to a course that would allow closer-in development of housing types that are demanded by housing consumers.

RESPONSE: This entire comment is clearly incorrect. The first paragraph seems to state that San Jose must supply a dwelling unit that is of a type and affordable to every person that might ever want to live in San Jose, and must take steps to mitigate actions that other jurisdictions take. This is clearly a false assumption. The idea that San Jose must house its own work force *and* that of other jurisdictions, or whoever else might want to live in the city, is not compatible with economic realities or good planning practice.

The second paragraph states the same assumption explicitly: "A decision to plan for fewer housing units than the number of households expected to seek housing..." reiterates the assumption of the first paragraph and then bases its conclusion, that adoption of the UGB will "drive housing consumers to live in more remote locations", on the false premise.

An EIR analyzing the impacts of San Jose adopting a UGB does not need to discuss impacts of not including dwelling units that are not accommodated by the City's General Plan.

COMMENT: 5. The DEIR does not compare conditions with the proposed project to existing environmental conditions.

CEQA requires discussion of the environmental setting of a proposed project and provides guidance as to how that discussion is to be framed. Section 15125 of the CEQA Guidelines states, in part:

(c)Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions as well as the potential future conditions discussed in the plan.

The CEQA guidelines go on to describe the case (Environmental Information and Planning Council v. County of El Dorado) which held that "in comparing a new county general plan that would allow less growth than the old plan, the EIR had to address the existing level of actual physical development in the county as a base line for comparison. The two plans could not be compared with each other without showing how they would relate to the existing level of development."

This DEIR consistently fails to describe existing conditions. Further, it fails to compare the conditions *with* the project either to the outdated "existing conditions" that it does describe or to current existing conditions.

The DEIR relies substantially on the General Plan EIR (Revised Draft published April 8, 1994) for information about existing environmental conditions; that is, the Environmental Setting. In fact, most of the information in the Environmental Setting sections of the DEIR is copied verbatim from the earlier document. This information is out of date with respect to regional growth projections, recent land use change, and traffic conditions. Because it fails to provide this information, the DEIR cannot compare future conditions with the project (a permanent UGB) to existing conditions in order to draw reasonable conclusions about the environmental impacts of the project.

RESPONSE: This comment is incorrect in stating that the DEIR does not describe existing conditions. It is true that the DEIR includes much of the same information that was in the General Plan EIR certified in 1994. At the program level which characterizes the DEIR, much of the information contained in the General Plan EIR is still accurate. The DEIR also includes additional, updated information where appropriate, throughout the document. Some individual examples include:

Page 21 The July 1997 update of the City's Vacant Land Use Inventory is used to identify how much of what kind of vacant land remains in the Sphere of Influence.

Page 41 Information on landslide susceptibility in the east foothills is expanded to reflect the "Special Geologic Hazard Area"(1995).

Page 52 The status of various current flood control projects is provided, and is further updated in comments received from the Water District and included in **Section III. Revisions to the Text of the Draft EIR** in this Amendment.

Page 53 Recent information on water quality and the Countywide program implemented to regulate nonpoint source pollution is provided.

Page 83 The list of special status species reflects the most recently listed species (1997) considered likely to occur within San Jose's Sphere of

Influence; the list is summarized on page 83 and included in its entirety in Appendix C.

Pages 115-120 The discussion of ambient air quality reflects the most recent information available at the time the DEIR was circulated, including the status of various regulatory programs.

Page 137 The most recent information available at the time the DEIR was circulated is reflected in the discussion of inflow to the wastewater treatment plant.

It is not accurate to say that "most of the information in the Environmental Setting sections of the DEIR is copied verbatim from" the General Plan EIR. It would be accurate to state that "relevant information on the existing setting is copied verbatim from the General Plan EIR".

It is also not accurate to state that the DEIR does not compare project impacts to existing conditions. As stated in the Preface, the DEIR has the dual responsibility of identifying both impacts on the real physical world as well as comparing what the impacts of General Plan implementation will be with the UGB versus without the UGB. While such an analysis is sometimes awkward to accomplish, it is found throughout the DEIR. In each area of impact, the DEIR identifies whether or not the UGB will cause development that would create an impact or whether the UGB will make the impacts anticipated from implementation of the General Plan worse. The DEIR also identifies whether the UGB might be expected to result in lower or less effective mitigation.

COMMENT: To meet the requirements of CEQA, the DEIR must compare the effects of growth likely to occur subject to the UGB regulations to the conditions described by the most recent information available and anticipated by the most recent projections. For example:

To address land use impacts, the DEIR must describe current land use conditions and projected demand for land use change. By relying substantially on the General Plan EIR for this discussion, the DEIR fails to account for changes that have occurred during the past four years. These changes affect how much new development the City should anticipate and the City's ability to accommodate new development. For example:

1. The DEIR must update information about the amount of new development the City can physically accommodate. The General Plan was intended to accommodate 52,900 new housing units. Since 1994, when the Plan was adopted, San Jose has gained 6,700 housing units (California Department of Finance estimates). Therefore, unless amendments to the General Plan have provided additional potential for housing development, fewer additional units can be accommodated by the City than was the case when the General Plan was adopted. Because the DEIR provides no information to the contrary, it is reasonable to assume that only 46,200 additional units can be accommodated (52,900-6,700).

RESPONSE: The 52,900 dwelling unit estimate is used in the DEIR for ease of comparison to the ABAG estimates, which this letter writer (and others) relied on heavily in

commenting on the project and the previous environmental review. ABAG's projections are provided in five year increments, so that projected growth can be identified from 1995 to 2010 or from 1995 to 2015 or from 2000 to 2020, etc. As stated in the DEIR (page 156), San Jose's adopted General Plan provides for development of an additional 52,900 dwelling units during the time period after 1995 and sometime between 2010 and 2020.

As stated in Section IV.A.(3) of this Amendment, the City estimates that approximately 47,400 dwelling units could be accommodated by the approved General Plan from July 1997 to a point in time sometime between 2010 and 2020. This number is added to the DEIR text in **Section III. Revisions to the Text of the Draft EIR.**

As stated repeatedly throughout the DEIR, the amount of vacant land available for residential development is not changed by the UGB, nor is the amount of residential development that can occur on that land changed by the UGB. The City of San Jose identified, as part of its *San Jose 2020 General Plan* comprehensive update, the amount of residential development that could be accommodated within its boundaries, based on its General Plan policies and the physical constraints of the land and neighborhoods within the City's Sphere of Influence. *All of that developable land is included within the UGB.*

COMMENT: Change in the Total Supply of Residential Land. The DEIR acknowledges a change of 17 square miles in the area encompassed by the City's USA (139 square miles vs. 122 square miles noted in the General Plan EIR) and in the number of acres of vacant land designated for single family and multi-family residential development (3,413 acres for single family and 940 acres for multi-family, vs. 5,340 acres for single family and 1,105 acres for multi-family noted in the General Plan, p. 14).

The DEIR does not, however, (1) indicate the land use designations of the 17 square miles of additional USA land area or (2) interpret that change in terms of the amount of land available for development at various densities. As a result, the DEIR presents an incomplete and out-of-date picture of the potential for additional residential development in San Jose.

RESPONSE: The number in the General Plan EIR was based on a net acreage for land uses which excluded rights-of-way such as roadways, railroads, and creeks from the acreage totals. The 139 acres is a gross number that includes all land uses and facilities.

COMMENT: Change in the Availability of Sites on Land Designated for Residential Use. The General Plan provided for development of 35,000 housing units on vacant land designated for residential development, and an additional 6,000 units on non-vacant land designated for residential use. How much of that land has developed, and with how many units? In light of the development that has occurred since the General Plan was adopted, how many more units can be placed on those lands?

Change in the Availability of Residential Land in the Intensification Corridors. The DEIR retains the estimate from the General Plan and the General Plan EIR that the Intensification Corridors will accommodate 6,600 new housing units. It does not provide information about

whether any of the sites in those corridors have been developed and, if they have, how the remaining capacity has changed. This information would update the estimate of new units that could still be accommodated within the Intensification Corridors and would provide a foundation for the conclusion that housing on these sites is marketable to housing consumers.

***Current Developability Status of Conversion Sites.** In the General Plan, "Conversion Sites" (developed land to be converted from nonresidential to residential use) are assumed to accommodate 3,300 new housing units. Although the DEIR details much of its discussion by referring specifically to potential development in Intensification Corridors and Urban Reserves (the other two major classes of non-vacant sites identified in the General Plan EIR for infill development), it does not provide any information about the remaining capacity of the Conversion Sites nor about whether any residential development has occurred on those sites since the General Plan was adopted. This information would update the estimate of new units that could still be accommodated on the Conversion Sites and would provide a foundation for the conclusion that housing on these sites is marketable to housing consumers.

RESPONSE: The *San Jose 2020 General Plan* revision identified 35,000 units of development potential on residentially designated vacant lands; approximately 6,000 units of development potential on non-vacant lands designated residential; 3,300 units of development potential on vacant lands designated for non-residential uses; and potential for approximately 6,600 units on various vacant and non-vacant, residential and non-residential properties in the Intensification Corridors. While some of the sites have developed or been approved for development, others are still vacant. The City does not maintain an inventory of redeveloped sites, and does not track the status of individual properties. The available information on vacant land is found on page 21 of the DEIR.

COMMENT: 2. The DEIR must update information about the amount of new development the City should expect. When the General Plan was adopted, the most recent forecast of employment, population, and households was *Projections 92* (see discussion above, on p. 5).

By the time the DEIR was adopted, ABAG had published *Projections 98*, which extends through the year 2020. As noted on p. 5 of this memo, *Projections 98* anticipates an increase of nearly 79,800 households in San Jose (which would require 83,500 housing units, including the five percent vacancy factor) between 1990 and 2020. (The corresponding forecast for the period between 1995 and 2020 is for 60,980 households and 64,000 housing units. These figures are used throughout this memo to characterize the impacts of the UGB project. The DEIR should have used the *Projections 98* forecast to determine whether the City provides sufficient physical capacity for development within the proposed UGB. This determination would inform valid conclusions about the land use impacts of the UGB project.

3. The DEIR must provide evidence of the marketability of intensified development within the USA. Relevant evidence would include information about the density of recent residential development projects. If the City cannot demonstrate that housing of the density that would be required to accommodate projected growth is marketable, then it cannot contend that development displaced from the expanding edges of the USA would instead located on sites within the UGB.

RESPONSE: Section IV(A)(3) of this Amendment discusses in detail the differences between ABAG's projections and the housing capacity of the City's General Plan.

As stated in response to previous comments, residential planned development zonings approved in San Jose over the last five years have averaged 22.8 du's/acre. Most of the residential development in San Jose occurs under planned development zoning. While the City is succeeding in encouraging infill development at higher densities, it is not for the purpose of accommodating "development displaced from" the Greenbelt, since there is no urban development allowed in the Greenbelt.

COMMENT: 4. The DEIR must estimate *where within the UGB the new development would occur, and how much would occur in each location, so that the analysis can evaluate future conditions* (e.g., buildout of the General Plan with the UGB *compared to existing conditions*.)

RESPONSE: This comment is not meaningful. Development will occur everywhere within the UGB. This document is a program level EIR prepared for a General Plan policy. It is not possible to predict precisely where development will occur at any particular point in time. If it were necessary, no City the size of San Jose could ever adopt a General Plan. The DEIR does assume that much of the future infill development will occur at those locations evaluated in the DEIR: in the Intensification Corridors. In addition, the DEIR specifically evaluates impacts from developing in the Urban Reserves and, where appropriate, along the edge of the USA. Otherwise, it is assumed development will occur everywhere the land is designated for urban uses and is either vacant or underutilized. In addition, the location of development with the UGB will be the same as the location of development without the UGB; the UGB does not change the definition of developable land already in the General Plan.

COMMENT: 5. The DEIR must estimate how much of the displaced development will relocate to leapfrog sites, and the general directions of the locations of that development (e.g., via which transportation routes). This information is necessary to provide a foundation for the adequate assessment of regional environmental impacts (e.g., traffic conditions and air quality) resulting from implementation of this project.

RESPONSE: The City and County estimate that no development will be "displaced...to leapfrog sites". The UGB does not preclude or reduce the development presently allowed on land outside the USA, it does not allow any additional development inside or outside the UGB boundaries, and it does not change the intensity of development allowed anywhere.

COMMENT: 6. The DEIR must describe existing traffic conditions and traffic conditions in the buildout condition, and compare them to future conditions without the UGB project.

The DEIR addresses a project that the City states is similar to the General Plan: the DEIR states in its Introductory Note to Chapter II (p. 2 1), "The analyses in this section are all based on the assumption described in Section I, that the proposed UGB simply reinforces General Plan policies which limit development outside of the USA. Therefore, the amount of planned development would not change with adoption of the UGB." Even if this assumption is true, the adoption of a Greenline/UGB is a separate project, with CEQA impacts that cannot be directly deduced from an

EIR on a different project, particularly in view of the failure to update so many of the conditions critical to the impact evaluation.

RESPONSE: This statement is erroneous. Simply because there is a separate adoption process for an amendment to a General Plan, making it a separate project under CEQA, does not mean that its impacts "cannot be directly deduced from an EIR on a different project". CEQA contains a number of processes for allowing environmental review to "tier" from earlier documentation. The documentation can range from an addendum, to a supplement, to incorporating by reference an earlier EIR. In light of the controversy engendered by the lawsuit on the UGB, the City chose to prepare a new freestanding EIR, for clarity's sake. Because so much of the relevant information is virtually identical to that used in the previous General Plan EIR, it IS also found in this DEIR.

COMMENT: By omitting any current traffic information, the DEIR makes its conclusion of "no impact" pure speculation, and fails to demonstrate whether the proposed project would result in any change *either* from conditions with the existing General Plan or from existing conditions, and whether any change from existing conditions would be better or worse than the change from conditions with the current General Plan.

RESPONSE: The information on the existing setting for traffic conditions reflected the overall conditions of the countywide system. Minor revisions were added to the discussion to update the information in the DEIR. The conclusion of no significant impact is not changed. The UGB will not cause any development to occur (compared to either the existing condition or General Plan buildout), will not increase the intensity of new development that is built, and will not in any way reduce the ability of the City to mitigate impacts from development that does occur.

COMMENT: The DEIR should provide information as comprehensive as that provided in the General Plan EIR, with a view toward providing the basis for a comprehensive update of the conclusions about environmental impact that were reached in the earlier document. To ignore or gloss over the changes that have occurred since then is to deny that the passage of time has brought any changes to the City of San Jose.

RESPONSE: The existing conditions discussion in the DEIR has been updated since the General Plan EIR, and reflects conditions at a level of specificity appropriate to a program level EIR for a General Plan amendment.

COMMENT: Existing conditions: Since the General Plan was adopted, new development has occurred in San Jose, bringing with it additional traffic. The DEIR does not provide information about the changes in traffic volumes and intersection levels of service that have taken place as a result of this development. Instead, the DEIR relies on three maps (Figures 6A, 6B, and 6C) from the General Plan EIR, with no supporting text (and with no year identification of the date of the maps), to describe existing traffic conditions.

City staff have previously commented that San Jose's traffic system is near capacity (Sheppard Mullin's brief in support of its argument to require an EIR on the Greenline/UGB project cites

statements made by planning staff in 1995 and 1996 about conditions on the City's transportation system.) This information is neither brought forward nor corrected in the DEIR.

RESPONSE: The existing congestion on City streets and the regional freeway system is acknowledged. The ability of the system to accommodate new development is entirely dependant on the intensity and location of each development, its land use mix (which influences timing and directionality of traffic) and its exact location. The impact of future development will, therefore, vary according to what is proposed, when, what infrastructure has been built and can be built by the development, and what the character of the development is. The DEIR identifies the elements of the transportation system, the general nature of existing congestion and its systemic causes, the location of particularly congested roadway segments, travel patterns, and the amount of traffic modeled on the roadway system at the point in time of the last annual General Plan update. Much of this information is similar to that provided in the General Plan EIR because the overall conditions on the City's roadways has not changed significantly since the General Plan EIR was prepared. Individual intersections will have deteriorated or improved, component parts of the infrastructure system will have been completed or begun, but the congestion on freeways and streets and the cause of the congestion have not changed.

COMMENT: Future conditions: More intensive development within the USA will cause increased use of the roadways, which will increase traffic congestion beyond the levels anticipated in the General Plan EIR. The DEIR does not evaluate the potential impacts of intensified residential development on intersection levels of service, screenline volume to-capacity ratios, or other pertinent traffic conditions, as did the General Plan EIR, nor does it identify the type of mitigation measures likely to be required to accommodate the increased traffic. To provide a foundation for this evaluation, the DEIR should build on the revised description of existing conditions to provide a baseline "future conditions without the project" scenario. Absent this scenario, the DEIR cannot effectively assess the impacts of the proposed UGB project on traffic congestion, either within the City or in the San Jose region.

The DEIR does not describe future traffic conditions adequately not only because it fails to recognize the traffic associated with increases in development within the USA, but also because it describes traffic conditions only through the year 2010. Because the General Plan horizon is the year 2020, the DEIR should analyze projected conditions in that year; because ABAG's *Projections 98* provide a forecast of population, employment, and households through the year 2020, the DEIR cannot (as the General-Plan EIR did) evade the responsibility for addressing the entire planning period on the grounds that no regionally-consistent projections are available.

To assert (DEIR, p. 153) that the amount of development within the USA would not be greater, but may be more rapid, with a UGB compared to the current condition does not dispose of the need to evaluate impacts on traffic. A proper traffic analysis compares future conditions with the proposed project to future ("baseline") conditions without the project, and recognizes "background" increases in traffic that will occur regardless of the project (e.g., commuters traveling from places of residence south of San Jose to places of work in or north of San Jose). Therefore, more rapid development within the UGB would place a greater amount of traffic on the system sooner than development without a UGB, and the impacts would be different.

Absent this information, it is not possible to characterize the impacts of the proposed project on land use in San Jose, or to estimate the percentage of excess housing demand that could be accommodated within the UGB during the planning period, or to project the impacts of the proposed UGB on local or regional traffic conditions.

RESPONSE: This comment is in error on virtually all points.

While “more intensive development” could, presumably, cause “increased use of the roadways and associated traffic congestion”, no more intensive development is allowed or enabled by adoption of the UGB. The traffic impact analysis done for the DEIR reflected the General Plan as updated through December 1997; the UGB reinforces the existing Urban Service Area limit, but does not change any land use designations, increase the intensity of any allowed development within or outside the UGB, nor does it relax or reduce any of the standards for mitigation in the General Plan. The type of analysis done for the UGB DEIR is exactly the same as the analysis done for all General Plan amendments in San Jose, it evaluated the potential for changes to vehicle miles traveled (VMT), vehicle hours traveled (VHT), average speeds, and screenline levels of service. The physical “future conditions without the project scenario” as stated in the DEIR on page 163, will be the same as with the project. This conclusion is based on the fact that the development potential of the City’s General Plan, with or without the UGB, is exactly the same and it is the development potential that would change the physical environment.

The DEIR does describe future traffic conditions; in particular, it explicitly analyzes the traffic “associated with increases in development within the USA”. The traffic analysis assumes buildout of the General Plan land uses in conjunction with construction of designated transportation diagram improvements. The DEIR identifies the amount of development that can reasonably be accommodated within the UGB, based on existing land use designations and historic patterns of development in San Jose under those same designations, includes a specifically identified level of infill development anticipated within the Intensification Corridors (6,600 dwelling units), and evaluates the traffic all of that development will generate. The General Plan horizon year is **not** 2020 and nothing in the DEIR says it is. It is stated throughout both the General Plan and the DEIR that the amount of development evaluated in the DEIR is anticipated to occur at a point in time between 2010 and 2020 because that is when the City estimates that all of the residential development currently anticipated to occur within the City’s USA will be built out; that date may even reflect development of the South Almaden Valley Urban Reserve. There is no requirement in CEQA or State planning that a General Plan must estimate development based on some other agency’s data analysis parameters, nor is the City required to agree with another agency’s data predictions.

Just because impacts occur sooner does not mean the impacts will, necessarily, be different. Obviously, neither the City of San Jose, the County of Santa Clara, nor any other planning agency in the State can precisely predict exactly when any particular level of development will occur. The City and County have identified planning horizons for their general plans, based on their experience within their jurisdictions, and explained the bases for those horizons. It is possible, as stated in the DEIR, that

adoption of the UGB may have the desired impact of encouraging developers to develop infill sites. As stated in the DEIR (page 157), the end result **may** be that some amount of development planned for in the City's General Plan will occur sooner than otherwise would be the case; the City does not know that such will happen and certainly cannot predict when or where or how much earlier any of the development would be. If some infill development does occur slightly earlier with the UGB in place than it would have otherwise, it will still have to meet the City's existing, established LOS standards, and it will still go through the CEQA and development review processes. That is the extent of the information known to the City of San Jose. Anything else is pure speculation.

The final sentence in this comment is unclear. Whatever "excess housing demand" is referred to is irrelevant. The General Plan can accommodate the same amount of housing after adoption of the UGB that it could accommodate prior to adoption of the UGB, there is no "excess" created by the UGB, and the UGB itself will have no "impacts...on local or regional traffic conditions".

COMMENT: 6. The DEIR does not provide current information about existing conditions.

By ignoring the CEQA requirement to assess impacts by comparing future conditions with the project to existing conditions, the DEIR evades the need to provide up-to-date information about existing conditions. Rather than provide current information, the DEIR simply copies material from the General Plan EIR.

Missing information about land use conditions, expectations about future growth, market acceptability of residential development at various densities, and traffic conditions is detailed in the previous section of this memo.

RESPONSE: This comment appears to be the same as the previous three pages (the various parts of comment #5).

It is not accurate to state that the DEIR has no up-to-date information. As stated in the first part of the response to comment #5, the DEIR has updated the relevant information (*i.e.*, information that has changed) since the General Plan EIR. The vast majority of land within San Jose's USA was already developed when the *San Jose 2020 General Plan FEIR* was prepared. It is still developed with the same land uses that were in place in 1994, when that EIR was certified. The geological, visual, historic, archaeological, noise, and service systems conditions identified in 1994 have not changed significantly since that time. Minor improvements have occurred in some of the infrastructure, and more species of plants and animals have become rare or threatened. In addition, more information is available about the presence of hazardous materials in the natural and man-made environments, traffic congestion has increased, agricultural land and open space have decreased. These changes are reflected in the DEIR analysis.

"Expectations about future growth and market acceptability of residential development at various densities" which would primarily be economic predictions,

have nothing to do with existing environmental conditions, and very little relevance to an environmental impact report.

COMMENT: 7. The DEIR does not adequately address growth-inducing impacts.

The entire assessment of growth inducing impacts of the proposed UGB project (DEIR p. 176) is:

The adoption of the UGB will reinforce existing policies in the adopted City and County General Plans that limit allowed development in the greenbelt. It will not allow any more development inside the USA than is already allowed by the City's General Plan. It will not create any precedent that will encourage or enable growth outside existing urban boundaries.

Therefore, it is concluded that the proposed project will not result in any growth-inducing impacts.

This assessment is inappropriate and inadequate. CEQA construes growth inducement as a local phenomenon, as indicated by the fact that extension of infrastructure to a new area is by definition growth inducing because it allows growth to occur in that area (Appendix G of the CEQA Guidelines). This understanding of the phenomenon of growth inducement means that the concept is not limited to attracting growth from beyond the region, but instead applies to local relocations of growth that was already expected in the region.

Residential growth not accommodated on sites identified by the General Plan (adequate for 52,900 new units starting in 1994) must go somewhere. If it is not accommodated by expansions of the USA, as has been the historical practice in San Jose, it must - as discussed earlier in this memo - be dislocated either onto (1) infill sites within the UGB or (2) leapfrog sites beyond the San Jose SOI. *In either case*, this dislocation represents growth inducement in the area where the dislocated growth ends up.

To satisfy the requirements of CEQA, the DEIR should have considered the following growth-inducing impacts of the proposed project:

Inducement of growth in infill areas via dislocation of development from the expanding edges of the USA to sites within the UGB.

Inducement of growth in surrounding communities beyond the San Jose SOI via dislocation of development from the expanding edges of the USA to leapfrog sites in those communities.

Likelihood that public services levels will never satisfy the "trigger" requirements for "significant" modifications to the Greenline/UGB. These trigger requirements are the same as those required to initiate planning in the Urban Reserves, including that urban services to existing residents and businesses are maintained at 1993 levels. Both because of the general inadequacy of public revenue resources in California and because the City fails to recognize the inevitable increased demands for location-specific public services and facilities in infill areas (related to intensification of residential development on sites within the UGB), it is probable that 1993 service levels will never be regained. If they are not, the City will have justification never to expand the UGB, and the resulting displacement of future development will induce even more growth either on infill sites or in the surrounding communities (or both).

RESPONSE: This comment relies on erroneous assumptions to reach its conclusions.

The UGB will not “dislocate” any development. The implication in this statement, that San Jose has “historically” accommodated any and all expansions of the USA in order to allow any development that was proposed because there was a shortage of developable land is inherently fallacious and contradictory. San Jose is not now built out (12,257 acres of vacant land as of July 1997, which is 14% of the total land within the USA). Any expansion of San Jose’s USA that occurred in the past was not, therefore, the result of a shortage of developable land, or even the result of a shortage of developable vacant land. San Jose has no “history” of expanding its USA to accommodate residential development due to a shortage of residentially designated space, and does have very specific policies in its General Plan that severely limit the amount of development that can be allowed on the kind of land (baylands, agricultural buffer, land above the 15% slope line) that is outside the proposed UGB.

There is no land suitable for urban development, based on existing General Plan definitions and designations of land considered not suitable for urban development, outside of the proposed UGB.

There is no overflow or surplus residential development that San Jose would suddenly deprive of a place to locate by adopting the UGB. The development that will occur at infill sites is development that the City has planned for and evaluated in the *San Jose 2020 General Plan FEIR* and the DEIR for the UGB. Development that will occur in distant counties which will be occupied by persons employed in Santa Clara County, is development that those counties have, presumably, planned for and which San Jose and Santa Clara County cannot influence. That development is assumed to occur whether or not San Jose adopts a UGB.

The letter writer’s opinion that the triggers for expansion of the UGB and/or development in the Urban Reserves can never be met is acknowledged. It is not clear if the letter writer is implying that it would be environmentally superior to attempt to serve other development, presumably in the Greenbelt, if the City cannot maintain a consistent level of public services at infill locations. The City believes the triggers can be met. If they appear to be unattainable the City could, with appropriate public notice and CEQA review, revise the triggers at some time in the future. The comment that the City “fails to recognize the inevitable increased demands for location-specific public services and facilities in infill areas” is incorrect. The City is well aware that infill development generates increased demand for public services; the City has been approving and serving increased levels of infill development for over 20 years. The General Plan FEIR and the UGB DEIR both evaluated the development of 52,900 dwelling units inside the UGB, including 6,600 units in the Intensification Corridors, and anticipates being able to accommodate them.

The rationale for this whole line of reasoning is flawed. Whether or not the triggers for developing the Urban Reserves are met, there would be no development “displaced” from the Greenbelt, because no urban development is allowed in the Greenbelt that could be displaced to any other location. Even under the hypothetical

circumstances postulated in this letter, if the City cannot provide services to the Urban Reserves and infill development, it would certainly not be approving development in the Greenbelt under existing General Plan policies.

COMMENT: 8. The DEIR definition and analysis of alternatives is inadequate.

The Alternatives Do Not Consider Any Meaningful Choices Without a Permanent UGB

The DEIR addresses five alternatives to the proposed project: (1) no project, with two variations (no new development and no change in the General Plan), (2) UGB encompassing a smaller area, (3) UGB encompassing a larger area, (4) UGB with no possibility of minor modifications, and (5) use of easements, instead of a UGB, to preclude development within the greenbelt.

Of these five alternatives, the "no project" alternative is required by law, and is acknowledged not to be consistent with project objectives.

The "easements" alternative is the only one that provides an alternative to the establishment of a UGB, but it is summarily dismissed because funding to acquire easements has not been identified. (In fact, after stating on p. 170 that no source of funding is identified, the DEIR goes on to state, also on p. 170, that "the financing method is not ... an environmental issue and does not need to be addressed in this EIR." It thus defines this alternative away.) The lack of funding to buy large areas of land needed to create a permanent greenbelt indeed leads to the inevitable conclusion that the easements alternative is not a meaningful alternative, and should never have been included in the DEIR.

The DEIR does not identify or evaluate any workable alternative that could achieve the project's objectives of securing a firm limit to the San Jose urbanized area that do not include a permanent UGB as proposed by the City. Possibilities that have been proposed in the past, including by Sheppard Mullin, include, for example, granting of development rights *in exchange for* open space dedications that establish a firm greenline (which would be unalterable in the future) or a system of transferable development rights (either within or between parcels) to eliminate the potential for development in the greenbelt and granting of density bonuses in exchange for protecting natural resources in outlying areas. The DEIR goes to great lengths to dismiss the first of these proposals (as discussed in detail below) as inconsistent with project objectives and environmentally inferior to the proposed project. Even if this dismissal were appropriate, it does not relieve the City's responsibility to consider in good faith a range of alternatives that it believes could achieve the stated project objectives using planning and policy tools other than an Urban Growth Boundary.

RESPONSE: This comment ignores the purpose of including alternatives in an EIR at all. As described in the CEQA Guidelines, the purpose of describing a range of reasonable alternatives to the project is to "avoid or substantially lessen any of the significant effects of the project". [§15126(d)1] The Guidelines go on to state that the range of alternatives is to include those "that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects". [§15126(d)2] Since the DEIR does not identify significant effects from the project, there is no inherent requirement that any alternatives other than "No Project" be evaluated. Alternatives were evaluated at the request of some

responses to the Notice of Preparation, and in order to clarify the project's own impacts.

The quotation from the discussion of the easements alternative in the DEIR is taken out of context, and part of the sentence is omitted. The entire quotation (from page 170 of the DEIR) is included in **Section III. Revisions to the Text of the DEIR**, with an addition that further enhances the potential viability of the alternative.

It is inappropriate and unnecessary to include a large number of alternatives that do not appear to have any potential for reducing or mitigating impacts, have more impacts than the project, and/or are incompatible with the project's objectives. Each alternative discussed in the DEIR includes a clear statement of why it is or is not considered environmentally superior to the project, and includes a brief discussion of whether or not it is likely to be feasible. In addition to the "No Project" alternative, the DEIR identifies three environmentally superior alternatives to the project.

COMMENT: Rejection of SMRH's "Limited Development" Alternative is Inappropriate

The DEIR specifically rejects SMRH's "limited development" alternative. This alternative would allow for some development on parcels adjacent to the USA in exchange for permanent dedication of lands beyond those developed portions, and would thus provide a permanent greenbelt that is not subject to change as a result of changes in public policy.

The DEIR provides detailed reasons why that alternative would be inconsistent with four of the project objectives. The arguments against this alternative are neither consistent nor sufficient to discard the alternative with no analysis of its potential impacts. Below, each stated City objective is shown in italics, followed by a brief summary of the City's argument and then our evaluation of the City's argument.

Provide a greater degree of certainty for residents and property owners regarding the long-term expectations for urban development. The DEIR argues that if development outside the USA can be approved on a case-by-case basis, there is no long-term certainty.

The problem with this argument is that public policy (i.e., adoption of a UGB by the City Council) is not as permanent a control on land use as dedication of land or development rights that restrict or eliminate the potential for development. Although the UGB is defined as a permanent boundary and major modifications to the UGB as proposed are very unlikely to occur (for reasons cited above), they are ultimately possible. In contrast, land on which development rights have been legally forfeited can never be converted to urban use. Therefore, the "limited development" alternative would actually provide more certainty in the long run than the imposition of a UGB, and would not be inferior to the proposed project in terms of certainty.

RESPONSE: The letter from Sheppard Mullin [Section IV.B.(11)] argues that the UGB is a permanent restriction that will *de facto* never be changed. The City disagrees. The dedication of easements for open space would be a more permanent guarantee that the Greenbelt would never be developed, which is why Alternative E in the DEIR, "Easements in the Greenbelt" is identified as environmentally superior to the

proposed UGB. However, the DEIR did not identify a funding source, which meant it did not appear to be viable. That deficiency has apparently been corrected; see **Section III. Revisions to the Text of the DEIR.**

The alternative of easements in the Greenbelt was discussed in the DEIR because it appeared to be environmentally superior to the project. What this comment ignores is that the "Limited Development" alternative which this comment letter is advocating includes a great deal more development in the Greenbelt than does the UGB and is, therefore, clearly not environmentally superior. The introduction of a great deal more development into the Greenbelt, accompanied by constant uncertainty as to how much dedicated open space would accompany each and every proposal, would clearly be contrary to the project objective quoted here. In addition, this comment does not, in fact, address how the "Limited Development" alternative, which by definition is development in the Greenbelt with an unknown amount of open space accompanying each particular development proposal, could possibly be found to be compatible with the stated objective.

COMMENT: *Promote fiscally and environmentally sustainable development, particularly "infill" development, in locations where the City can most efficiently provide urban services.*

The DEIR notes that infrastructure extensions place a burden on the entire City because they increase the size of the system that the City must maintain; also, it notes (presumably to cover non-infrastructure-based services) that services are provided from a central node. It also states that the extension of roads beyond the urban fringe can create additional traffic congestion and air pollution in the neighborhoods where they connect.

Problems with this argument are:

It is not obvious that development in the Urban Reserves would be fiscally and environmentally superior to limited development contiguous with or near the UGB in the area designated as open space under the UGB proposal. Both the South Almaden Valley Urban Reserve and the Coyote Valley Urban Reserve are situated similarly to other lands beyond the proposed UGB. The Coyote Valley area - which is not even anticipated for development during the time horizon of the 2020 General Plan - is farther from the City's core than are other lands adjacent to the proposed UGB. If and when the Urban Reserves are opened up for development, infrastructure extensions will be required. At that time, there is no guarantee that development will occur on lands contiguous with or near the edge of pre-existing urban development; it is just as likely to occur on non-contiguous sites.

*The DEIR asserts that, by prohibiting development in the greenbelt, the UGB will encourage infill development within the UGB. The DEIR acknowledges that infill development may occur at a more rapid rate if the UGB is established, but does not evaluate the local environmental (and fiscal) impacts of that more rapid development (e.g., on traffic, air quality, and public service infrastructure).

The DEIR ignores the fact that some development will be displaced to infill locations and some will be displaced to more remote locations, beyond the greenbelt. Therefore, it does not discuss either the local impacts of infill development (identified on pp. 8-12 of this memo) or the regional impacts of such leapfrog development (identified on pp. 12-13 of this memo).

Because neither class of impacts (local or regional) has been described, the question of which impacts - regional (under the displacement scenario) or neighborhood (under either the infill scenario or the City's contiguous development at the urban fringe scenario) - would be more severe has not been addressed.

RESPONSE This comment does not address how the alternative being advocated conforms to the project objective, although the purpose of the comment is ostensibly to evaluate the relevance of the alternative to the objective. The comment reiterates all of the objections to infill development which are raised (and responded to) earlier in this same letter, and seems to imply that the City should not even have such an objective for the project. The project does have and has always had the stated objective, however, and the objective is specifically compatible with a significant number of General Plan goals and policies. The objective is, therefore, a legitimate one for a General Plan amendment and is clearly identified throughout the DEIR.

The peripheral issues raised in the last three paragraphs -- that the DEIR does not identify the impacts of infill or compare the impacts of infill with the impacts of building at remote locations -- do not appear to relate to the conformance of the alternative to the objective at all. As stated in previous responses to this comment letter, the UGB does not displace any planned urban development. The UGB does not change the development potential envisioned in the General Plan for lands either inside or outside the proposed UGB.

COMMENT: *Preserving surrounding hillsides, wetlands, and agricultural and other open space lands as a legacy for future residents and maintain the City's reputation as an attractive place to live and work.*

The DEIR states that allowing development in the Greenbelt "would, by definition, allow more development than would be allowed by the existing USA in combination with the proposed UGB in the hillsides, wetlands, agricultural areas, and other open space lands outside the USA" and, therefore, would not preserve them for the future.

It is likely that adoption of the UGB, as proposed, would indeed limit development in the open space areas of the Greenbelt to less than would be possible in the absence of the UGB. This argument, however, ignores the protections for hillsides and wetlands that are already in place, and which would guide development to the non-environmentally-sensitive areas of the proposed Greenbelt. It also ignores the fact that the "limited development" alternative would *permanently* preserve hillsides, wetlands, and other open spaces by requiring legal dedication of the land or the development rights in return for the ability to develop elsewhere, and therefore would be superior in this regard.

Past City policies governing development in the hills - e.g., Silver Creek - have directed that development to areas that could not be seen from roadways outside the development area, and thus have assured that views of the hills were not altered by the appearance of development. Presumably, this strategy has been effective not only in maintaining San Jose's reputation as an attractive place to live and work, but also in providing additional attractive housing opportunities in the San Jose area to a population group that otherwise would have had to Commute from a greater distance to workplaces in San Jose. The suggested "limited development" alternative includes this strategy.

RESPONSE: Since the alternative specifically includes development in the hills, and presumably could include development in the baylands and agricultural buffer adjacent to Morgan Hill as well, it does not preserve the Greenbelt. The UGB is consistent with existing City policies that preclude urban development in the Greenbelt. This alternative, which would allow what sounds like unlimited development throughout the City's Sphere of Influence, accompanied by some amount of permanent open space, is clearly not consistent with existing General Plan policies. Adoption of the UGB does not limit development to less than would be allowed without the UGB, it reinforces existing limitations on urban development in the Greenbelt which would be significantly less than would be allowed under this proposed "Limited Development" alternative.

The limited amount of development that has been allowed pursuant to expansions of San Jose's USA in the past has occupied the land on the edge of the hills, land whose owners were required to prove was that it was below the 15% slope line and suitable for urban development under the City's General Plan policies. For example, in 1990, the City approved a General Plan amendment for a portion of the Richmond Ranch, the same property owner whose attorneys have retained the writer of this comment letter. In evaluating the proposal to allow urban development on a portion of the larger property, the Staff Report pointed out that the property owner had prepared an EIR to:

"...determine more accurately the location of the 15 percent slope line on the property which would define the ultimate limit of urbanization in this area."

The Staff Report also describes how the property could be developed, with 46 acres of private open space which would "define the limit of urban development in this area" by separating the urban uses allowed on the flatter portions of the land from the steep slopes on and near the remainder of the property. In fact, the inclusion of private open space on the site would aid "in the preservation of the Non-Urban Hillside lands beyond the Greenline."

The development of this portion of the Richmond Ranch was very similar to the "Limited Development" alternative advocated by this letter, but it was specifically compatible with existing General Plan policies: it distinguished between land suitable for urban development and land which was located by General Plan policies existing at that time **outside the Greenline**. The land which policies determined belonged outside the Greenline (*i.e.*, land above the 15% slope line) was designated for non-urban uses. This is part of the very same property which the commenter now suggests is appropriate for additional development under a "Limited Development" alternative.

COMMENT: *Protect public health and safety by preventing urban development in areas subject to natural hazards.*

The DEIR identifies geotechnical problems in the east foothills, "which comprise most of the non-urban area of the City's sphere of influence."

These problems are addressed by existing City policy and the ability to identify impacts and mitigation measures in project-specific environmental documents. Therefore, no additional public safety benefit is conferred by a UGB, and adoption of a permanent UGB to address these types of problems is redundant.

Other development has previously been approved and carried out in the east foothills (again, Silver Creek is an example). The DEIR does not indicate whether geologic conditions in those areas are significantly different from those in the lands relegated to the greenbelt (and we suspect that they are not).

Based on the foregoing discussion, it is not reasonable to conclude that the "limited development" alternative is inconsistent with project objectives, nor that is necessarily environmentally inferior. In fact, based on this discussion, this alternative could be environmentally superior to the proposed project or the alternatives that are considered in the DEIR in that it would (1) guarantee a permanent greenline as a result of development rights dedications and (2) reduce the potential for leapfrog development that is not accommodated within the USA, and therefore reduce the regional impacts of that development on traffic, air quality, and prime agricultural land.

RESPONSE: This comment ignores the two thresholds of significance for geologic and soils impacts, found on page 44 of the DEIR.

In addition to being located above the 15% slope line with all of the inherent problems associated with erosion and stability which that entails, most of the land beyond the proposed UGB is in the east foothills. This area contains the greatest number of major faults and fault zones of any portion of the San Jose Sphere of Influence. It is also characterized by a large number of major and minor landslides and by the presence of serpentine soils which contain chrysotile asbestos (pages 40-41 of the DEIR).

The City believes that much, if not all of the land in the east foothills, meets one or both of the two thresholds of significance identified in the DEIR, in that development there would:

“result in development or infrastructure being constructed on a site with geologic features which would post a substantial hazard to property and/or human life (*i.e.*, an active fault or active landslide); or expose people or property to major geologic hazards that cannot be mitigated through the use of standard engineering design and seismic safety design techniques.”

The conclusion of this comment appears to be saying that the letter writer believes that development outside the Greenline, *i.e.*, development in the east foothills and baylands of San Jose, would be environmentally superior to infill development. If that is what the comment is saying, the letter writer's opinion is acknowledged and rejected as not supported by any factual information known to the City of San Jose and Santa Clara County.

COMMENT: The Alternatives That Are Discussed in the DEIR Are Not Adequately Defined, and Therefore Do Not Meet the Requirements of CEQA

The DEIR identifies five alternatives to be discussed. Most of these alternatives are not well defined: the DEIR presents no quantification of the different characteristics or effects (e.g., amount of development permitted, potential locations of development) associated with each.

This absence of quantification is a marked departure from previous EIRs prepared by the City of San Jose. For example, the EIR on the General Plan contains text and tables that compare the number of housing units that could be built (Table 28, p. 250) and the traffic conditions (corridor impacts and screenline conditions (Tables 29 and 30, pp. 253 and 254) in each of the five alternatives. The Greenline/UGB DEIR, in contrast, describes alternatives only qualitatively, with the single exception of identifying additional housing development capacity that would be available in Alternative C (expanded UGB).

It may reasonably be concluded, based on the lack of quantification, that the other alternatives are functionally no different from the proposed project in that they do not alter the amounts of development that could occur or the locations and impacts of that development. Therefore, these alternatives do not satisfy the requirements of CEQA.

RESPONSE: The comment that the UGB DEIR is a marked departure from other City of San Jose EIRs is incorrect. The only EIR to which it is compared was the *San Jose 2020 General Plan* EIR which was prepared for a project whose specific purpose was evaluating alternative General Plan scenarios. The letter writer is referred to two other City EIRs that are listed in the References for the UGB DEIR, *Richmond Ranch Final Environmental Impact Report* (12/92) and *Town & Country Village Final Environmental Impact Report* (5/98). Both EIRs include levels of detail in the alternatives analysis similar to that in the UGB DEIR.

It is also not true that the alternatives “do not alter the amounts of development that could occur”, although that would be perfectly consistent with the purpose of evaluating alternatives since the UGB **does not alter the amount of development that could occur anywhere in San Jose’s Sphere of Influence**, and the CEQA Guidelines do not require that an EIR construct an elaborate alternative scenario.

The discussion of Alternative C, “Larger Area Inside the Urban Growth Boundary” was considered at the request of the Richmond/Young Ranches’ attorneys. Given that a request for a General Plan amendment is on file with the City, the DEIR evaluated more than just a change in the location of the UGB. It also assumed that the City would change the land use designations on the property in a fashion similar to what has been requested by the property owners, although such changes appear to be inconsistent with existing General Plan policies. The DEIR then compared this alternative scenario--a different location for the UGB line and urban development on land that is presently in the Greenbelt--with the proposed UGB and the existing General Plan land use designation on the property.

This approach to an alternatives analysis exceeded the purpose and meaning of the alternatives analysis required by the CEQA Guidelines, but represented a good faith

effort to compare the proposed Richmond/Young Ranches development with the proposed UGB.

COMMENT: Discussion of Environmental Impacts of Alternatives is Inadequate and Inconsistent

Lacking clear definitions of what the various alternatives would accomplish and how they differ in their physical effects from one another, the DEIR cannot provide adequate evaluations of their environmental impacts.

RESPONSE: The discussion provided on the alternatives is very clear in what they would allow or achieve, how they would differ from the proposed project, and the extent to which they could or could not be environmentally superior to the proposed project, the UGB. The alternatives in the DEIR therefore meet the purpose and intent set for them by the CEQA Guidelines.

COMMENT: (a) No Project Alternatives

(1) No Development Scenario

Evaluation of this alternative is required by CEQA, even though it is not a meaningful alternative to the proposed UGB project.

The DEIR (pp. 162-163) states that the existing setting would remain as it is currently and all impacts associated with development of the City's General Plan would be avoided. It dismisses this alternative because it would not be consistent with the project objectives or the General Plan objectives.

An adequate evaluation of this alternative would recognize that a no development scenario would dislocate all new residential development that would have occurred in San Jose to other communities and unincorporated areas within the commute-shed of the Santa Clara County employment centers, including San Jose. Even (perhaps *especially*) if no new nonresidential development were permitted within the City of San Jose, continued employment growth would be expected in other South Bay communities. While San Jose is not legally responsible for housing people who work in other cities, permitting no new development at all would assure that people working in the South Bay, including San Jose, who would have sought housing in San Jose would have to live farther away. Their more lengthy commutes would increase the impacts of South Bay growth on regional traffic and air quality.

RESPONSE: This comment is not meaningful. This statement can be summarized as: the impacts of traffic and air pollution generated by people driving from new jobs in Santa Clara or Sunnyvale to housing in Tracy is actually caused by San Jose not building housing in the Greenbelt. Furthermore, the commenter further selectively defines no development as only no residential development, but does not explain why additional job growth would continue.

This comment contains no logical reason why the "No Project/No Development" alternative should be identified as having any impacts. There is no urban

development to be dislocated from the Greenbelt, and San Jose does not agree that not developing in the steep hills and baylands outside the USA causes traffic and air pollution.

COMMENT: (2) Development Under Existing General Plan Policies

The discussion of this alternative (p. 163) states that the primary difference between the proposed UGB and the existing General Plan is that the proposal provides greater certainty about the location of the Greenbelt boundary. Statements in support of this argument assert, in effect, that City decision makers cannot be relied upon to consider development proposals that would adjust the USA in light of the City's objectives of protecting hillsides, wetlands, and agricultural lands and encouraging infill development. For example, the DEIR states (p. 163), "Due to the annual possibility of future General Plan amendments in the proposed UGB area, this alternative *would not meet project objectives*" and "The existing General Plans [sic] would not, therefore, as rigorously and consistently promote infill development or development at locations where urban services can be most efficiently provided; nor do they ensure as thorough an analysis of proposals for urban development in areas subject to natural hazards."

Those statements are flatly inconsistent with the assertion in the same paragraph (DEIR p. 163) that "the physical impacts of implementing the City's General Plan without a UGB will be the same as the physical impacts of implementing the General Plan with the UGB in place." They make the point that, absent the establishment of a permanent UGB, growth needed to accommodate the demand for housing in San Jose would indeed continue to be built on the edges of the an expanding USA. This contradiction effectively acknowledges that the pattern of development, and resulting impacts of that development, would differ under the existing General Plan from the pattern and impacts with the proposed UGB.

RESPONSE: This comment ignores the meaning of the first project objective, and attributes a conclusion to the DEIR that is not found in the document. The DEIR also does not say that the primary difference between the proposed UGB and this alternative is that it provides greater certainty about the location of the boundary. It says this alternative does not meet the project objectives, especially a greater degree of certainty for the general public and additional protection for hillsides, wetlands and agricultural lands.

The discussion of "Development Under Existing General Plan Policies" in the DEIR does **not** state that "City decision makers cannot be relied upon to consider development proposals that would adjust the USA in light of the City's objectives of protecting hillsides, wetlands, and agricultural lands and encouraging infill development". There is nothing in the discussion that could or should be interpreted to mean that.

There is a difference, overlooked in this letter and others that were attached with it, between a *request* for authorization to develop and *approval* of development.

During any General Plan annual review property owners can and do file for expansions of the USA. Despite the fact that such expansions almost always present a clear contradiction of existing City and County land use policies, the property

owners expend time and money to prepare appropriate documents for projects that are not approved. Nearby property owners and interested members of the community who are concerned that the City adhere to its existing General Plan policies, perceive that basic land use policies are “under attack”, and say that the same battles should not be fought over the same issues every year. The proposed UGB restates the existing General Plan policies in more unequivocal language, and establishes an explicit and more thorough process for changing the limits of urban development within the San Jose Sphere of Influence.

The DEIR does **not** say “due to the likelihood that the City will approve General Plan amendments in the proposed UGB area....” It **does** say “Due to the annual *possibility* of future General Plan amendments in the proposed UGB area....” [italics added]. In other words, if property owners perceive that the UGB might be changed, they will attempt to change it every year, with the associated controversy that will cause. The stated project objective is “Provide a greater degree of certainty for residents and property owners regarding the long-term expectations for urban development.” Which **does not mean** that City decision makers will change the UGB every year, only that the general public and property owners outside the USA perceive that it might be changed every year.

The DEIR does not imply, state, or infer that “absent the establishment of a permanent UGB, growth needed to accommodate the demand for housing in San Jose would indeed continue to be built on the edges of the an [sic] expanding USA.” Since the City and County do not believe that to be the case, and the DEIR does not anywhere identify the possibility of that happening, it is certainly not something that should be attributed to the relatively straightforward language in the No Project discussion.

COMMENT (b)Smaller Area Inside the Urban Growth Boundary

The DEIR discusses an alternative in which the UGB would encompass a smaller area. This tighter UGB would leave out (a) two areas in the east foothills (Silver Creek and Edenvale) that are already designated as non-urban hillside and (b) the Coyote Valley Urban Reserve.

Non-Urban Hillside. As indicated in the DEIR's discussion of this alternative, virtually no development is permitted in these areas under current City policy. The Non-Urban Hillside area of the Silver Creek Valley Planned Residential Community would allow a total of 32 housing units; the DEIR states (p. 165) “The Silver Creek Planned Residential Community also designates non-urban hillside lands and precludes their development.” The DEIR also states nonurban hillsides in the Edenvale Redevelopment Area “cannot be developed with urban uses above the 15 percent slope line.” The DEIR states (p. 165), however, “Placing these properties outside the UGB would not change the amount of development allowed on the land and would, therefore, have no environmental effects.” In this statement, the DEIR acknowledges that entitlements are already in place for the Silver Creek and Edenvale planning areas, and their development potential has already been established.

Coyote Valley Urban Reserve. The DEIR also concedes that this area is not anticipated to be developed before the year 2020; that is, within the time horizon of the General Plan. The tabulation

of residential development potential presented in the General Plan EIR explicitly assumes that no development will occur in this area, and does not analyze any environmental impacts associated with it. Therefore, to assert that drawing the UGB to exclude this area from development represents an alternative to the proposed project is misleading, because it was already excluded from development before the end of the General Plan period.

Given the understanding of the impacts of the "Smaller Area" on development potential (locations and amounts), this alternative is not materially different from the proposed location of the UGB. A conclusion that this alternative is environmentally superior to the proposed project is thus not supported, because there is no significant difference between the alternative and the proposed project. Impacts described in association with eventual urbanization of the Coyote Valley Urban Reserve are not avoided by this alternative, because (1) development is not expected through the time frame of the General Plan and (2) the impacts of urban development in the Coyote Valley Urban Reserve have not been evaluated in the General Plan EIR or any other CEQA document; therefore, development cannot occur until CEQA review is completed.

Like other sections of the DEIR, this discussion ignores the effects of constraining the supply of developable residential sites: dislocation of residential development, with resulting impacts on traffic congestion and air quality within the City of San Jose (where development occurs more intensively within the UGB) and on regional traffic, air quality, and conversion of agricultural land to urban use (where development is dispersed to remote locations). In this case, because the alternative does not really reduce the amount of land available for development, there is no impact. If the area included within the UGB were effectively smaller in this alternative, however, housing would be displaced and the types of impacts noted would be increased.

RESPONSE: Identifying an alternative to the proposed UGB location that was inherently consistent with the basic definition of the UGB required that the lands excluded from the urban area had to be lands not considered suitable for development in the City's General Plan. The lands designated *Non-Urban Hillside* which are within the boundary of the Silver Creek Planned Residential Community obviously meet that definition. It is true that placing these lands outside the UGB would not change the amount of development allowed on the land. Not, however, because "their development potential has already been established" as stated in this comment, but because they are too steep for urban development under the existing definition in the General Plan. They *have no urban development potential*, which is also true of lands outside the proposed UGB location.

The comment that the Coyote Valley Urban Reserve is excluded from development before the end of the General Plan period is incorrect. The General Plan simply does not anticipate its urban development before that time. If the necessary prerequisite conditions were met and property environmental clearance completed, specific planning and development could theoretically occur within the Coyote Valley Urban Reserve during the timeframe of the *San Jose 2020 General Plan*. While the Coyote Valley Urban Reserve is assumed to develop at some time in the future, it is not now proximate to existing urban development. Because it is included in the UGB, the likely physical impacts of its developing is assessed in the DEIR, to the extent they can be determined at this point in time. [The statement that the impacts of urban development in the Coyote Valley Urban Reserve have not been evaluated in...any

other CEQA document” is clearly untrue, since its impacts are assessed in *this* CEQA document.] The alternative to the proposed UGB would exclude the Coyote Valley Urban Reserve from the UGB, which is different from the project as proposed, which includes the Coyote Valley Urban Reserve in the UGB. Since the ultimate development of the Urban Reserve clearly will have physical impacts, including loss of open space and agricultural land, and significant increases in traffic, stormwater runoff, air pollution and noise, the alternative of **not** allowing development in the Urban Reserve would have fewer environmental impacts.

This comment says that because the impacts would not happen before 2010 or 2020, they can’t be considered impacts. The distinction is not relevant.

The last comment does make a valid point. If development in the Coyote Valley Urban Reserve were to be precluded by excluding it from the UGB, housing which the City had envisioned being able to accommodate would, presumably, occur elsewhere. It is not clear at this point in time when that might be, or even whether the City would ever be able to service the development of the Urban Reserve. What the secondary impacts might be of the City not approving development that is still so far in the future would, however, be very speculative at this time.

COMMENT: (c) Larger Area Inside the Urban Growth Boundary.

The alternative considered under this heading in the DEIR is modification of the UGB to encompass both the Young Ranch and the Richmond Ranch in their entirety.

The DEIR states, "To the extent that the inclusion of these properties within the UGB might be interpreted to mean that the UGB was flexible or subject to modification in non-urban hillside areas, this alternative is in direct conflict with one of the project objectives in that it does not provide a greater degree of certainty for the general public as to the long-term expectations for urban development." The statement as it stands does not make sense; how could establishment of the line in a certain location indicate that it is flexible?

RESPONSE: The EIR text is modified to clarify this statement. Including lands that do not meet the General Plan definition of property suitable for urban development inside the UGB could appear to be in direct conflict with the project objectives, since including property within the UGB is supposed to mean that the property is suitable for urban development. See **Section III. Revisions to the Text of the DEIR** in this Amendment.

COMMENT: Consistent with other sections of the DEIR, this discussion also ignores the effects of changing the supply of developable residential sites. Expansion of the UGB to include the potential for 2,400 additional housing units would expand the supply of sites for new residential development that is demanded in the marketplace. An increase in the supply of sites will allow the production of more housing that is attractive to housing consumers within the San Jose urban area. The resulting physical impact will be potential for lower-density (more market-acceptable) housing at within the USA, which in turn means shorter commute distances, less increase in regional vehicle miles traveled and traffic congestion, and less air pollution. The DEIR should make a good-faith effort to balance the environmental benefits associated with this development pattern (compared to the

dispersal of some development to leapfrog locations) against the adverse impacts associated with the conversion of some land in the greenbelt to urban uses.

The types of potential impacts identified in the evaluation of this alternative - related to visual impacts of building on hillsides, loss of habitat, exposure to geotechnical risk, and potential for degradation of water quality - are (or should be) all subject to mitigation by appropriate project-level environmental review that implements existing City policy.

RESPONSE: The DEIR identifies the likelihood that development of the Richmond/Young Ranches would generate housing, although not affordable housing, given the costs of development in hillside areas. Since such development is unlikely to be cost competitive with the housing being built in outlying counties, it is unlikely that buyers of homes in the Central Valley or San Benito County would instead buy houses built on this property. It is more reasonable to assume that homebuyers who would otherwise have lived within the existing urban area would instead buy at this more distant location, with the associated longer commute, more air pollution, and congestion on more miles of roadway.

As to the ability of existing policies to mitigate the impacts of building in the hillsides, the City acknowledged in *GP '75* and in every subsequent General Plan update that the steeper slopes, greater intensity of geotechnical hazards and risks such as wildfires, increased difficulty of providing services, and wider extent of critical habitats, plus the importance of the hillsides as watershed, made development in the foothills far more difficult to mitigate than development on flatter terrain. Existing City goals and policies are not designed to mitigate development in the foothills because the City's General Plan does not allow development in the foothills. It would be inappropriate for this EIR to assume that existing City policy could mitigate the impacts of this development alternative.

COMMENT: (d) No Minor Modifications of the UGB

The discussion of this alternative (p. 170) is inconsistent: first, it identifies potential impacts that might result from development that would be allowed following minor modifications to the UGB (essentially the same list as for the previous alternative) and then concludes that the alternative - which does not allow minor modifications - would not result in any additional environmental impacts or benefits. If adoption of the UGB proposal as presented is to be beneficial, then this alternative would be clearly superior because it would eliminate any vestiges of uncertainty about where the line is located.

RESPONSE: The correction is acknowledged. The text language has been changed to identify this alternative as environmentally superior.

COMMENT: (e) Easements in the Greenbelt

As noted above, the DEIR effectively dismisses this alternative by stating that funding has not been identified, but funding is not a CEQA issue, so the alternative is infeasible. Either this analysis demonstrates that this alternative was not appropriate for inclusion in the DEIR in the first place, because it is not a real alternative, or the discussion is not adequate.

RESPONSE: Because this comment focuses on the quote taken out of context, it disregards the language in the DEIR that identified a possible funding mechanism. The DEIR says that the alternative *might* be economically infeasible. As language added in the text revisions indicates, however, there is another potential source of funding for such easements. See Section III. Revisions to the Text of the DEIR.

COMMENT: 9.The DEIR does not address the significance criteria that it establishes for defining impacts.

The DEIR identifies "Significance Criteria" for each topical area of environmental analysis. These criteria are intended to establish thresholds for determining whether identified impacts are significant. The impact analysis in the DEIR, however, seldom addresses the significance criteria. The following discussion summarizes the disjunction between the identified criteria and the impact discussion. A more detailed, topic-by-topic and point-by-point discussion is appended to this letter.

RESPONSE: The DEIR adheres consistently to the significance criteria in determining whether or not an impact is significant. The subsequent comments indicate that the letter writer disagrees with the conclusions as to significance, and sometimes objects to the way the analysis was done, but does not discover a failure to identify the significance of the impacts.

COMMENT: Land Use

Among the significance criteria for land use impacts (DEIR pp. 24-25) are (1) incompatibility with infrastructure capacity, (2) substantial loss of open space, (3) conversion of prime agricultural land to non-urban use or impairment of the agricultural productivity of land, or (4) displacement of a large number of people.

***Incompatibility with infrastructure capacity.** The DEIR does not discuss current infrastructure capacity, and therefore is not able to draw conclusions about whether growth consistent with the UGB could be accommodated. If any of the development displaced by the establishment of a permanent UGB is dislocated to infill sites within the UGB, then the DEIR should evaluate the adequacy of the City's infrastructure capacity; if it is dislocated to leapfrog sites beyond the City's SOI, then the DEIR should evaluate regional infrastructure, such as roadways.

***Substantial loss of open space.** The DEIR asserts (p. 29) that adoption of the UGB "will not cause development on agricultural lands, nor will it directly result in any loss of open space." It does not discuss the trade-offs between the amount of open space presumed to be preserved by adoption of a permanent UGB (in other words, the amount of land that would otherwise have been converted to urban use through modifications to the USA) on the one hand and the regional development effects of potential leapfrog development on the other. For there to be no offsetting loss of regional open space, the DEIR would have to argue that all residential development not allowed to locate on sites that would become available via USA modifications would be accommodated as intensified development on infill sites within the UGB. (Such capture would require both sufficient land supply and market acceptance of the resulting development types, as discussed on pp. 13-14 of this memo.)

***Conversion of prime agricultural land to non-agricultural use or impairment of the agricultural productivity of prime agricultural land.** The DEIR states (p. 29) that "Adoption of the

UGB will not cause the loss of open space or agricultural land." As discussed elsewhere in this memo (p. 12), it does not discuss the potential impacts on agricultural land of development in leapfrog locations. Further, it does not discuss the relative advantages and disadvantages of permitting development adjacent to existing urban development (e.g., through incremental modifications to the USA) versus development on leapfrog sites over which the City has no control, and which may be far more disruptive to viable agriculture if it is located on sites surrounded by agriculture.

***Displace a large number of people.** The DEIR does not address this criterion. If new development dislocated from the areas that would have been included in an expanding USA is instead located on infill sites within the UGB, it would exert upward pressure on housing prices (both as a result of increasing land prices, caused by a limit on the amount of land available, and as a result of timing delays, which would inhibit supply responses to growing demand). Increased housing prices would have an adverse effect on all renters and on homeowners seeking to change their places of residence. Renters would face increased rents for the units they occupy, and could be forced to move out of their neighborhoods (and possibly even beyond the SOI) if prices rise beyond their ability to pay. Similarly, renters and homeowners seeking to change their places of residence (e.g., because of changes in job location, changes in family size, or for other reasons) may not be able to afford the type of housing they seek within the City of San Jose.

RESPONSE: None of these comments relate to a failure on the part of the DEIR to "address the significance criteria".

The first point reiterates the letter writer's belief that the UGB will "displace" development which would require infrastructure capacity which the DEIR presumably fails to address. The General Plan identifies a level of development which is allowed by the existing General Plan land use designations. The UGB does not change those land use designations, does not modify City policy to allow more development within those land use designations, and does not modify the development standards established by General Plan policy, particularly level of service standards for infrastructure. The UGB cannot "induce" any infill development in excess of what is already allowed by the General Plan, and cannot "displace" urban development that is not allowed in the Greenbelt to begin with. The UGB *cannot*, therefore, "induce substantial growth or concentration of population which is incompatible with established community goals and/or infrastructure capacity" [the exact text of the significance criterion addressed in this comment].

The second and third points reiterate the letter writer's earlier statement that there is a substantial amount of development that would have been accommodated by way of "USA modifications" absent the UGB, and that the EIR should evaluate the impacts of where that development will locate if the UGB is adopted. This is also related to the inherent assumptions identified earlier that San Jose must allow development by any property owner that asks, and that San Jose would have provided a dwelling unit for every person that ever wanted to live in San Jose's Sphere of Influence, if the UGB were not adopted. Neither of these assumptions is true or has ever been true, and the potential for impacting open space and agricultural land due to the adoption of the UGB is addressed on pages 28 and 29 of the DEIR.

The fourth point is similar to the previous three. The objection expressed to the discussion in the DEIR is not that the DEIR does not address the dislocation of a large number of persons, because it is the letter writer's contention that the DEIR does not identify impacts from "dislocated" housing that would have been approved in the Greenbelt and instead will be located at infill sites where it causes timing delays and increased rents. [It is not clear why the comment implies that it would take longer to build at an infill site where most of the utilities are available and a General Plan amendment is not necessary, than in the Greenbelt, where no infrastructure exists, extraordinary design measures must be taken to mitigate impacts, and a General Plan land use change to allow urban development would be required.] The discussion on pages 29 through 31 of the DEIR explains why the DEIR concludes that there will be no significant displacement of persons as a result of adoption of the UGB.

COMMENT: Transportation

Significance criteria defined for the DEIR are different from those used in the General Plan EIR. They define (1) a significant systemwide impact as one that causes an increase in vehicle miles traveled and an increase in vehicle hours traveled and a decrease in average speeds and (2) a significant corridor or screenline analysis as one which causes a defined increase in the volume-to-capacity (V/C) ratio.

The General Plan EIR, in contrast, identifies significant impacts where V/C ratios are exceeded on major corridors or at defined screenlines, regardless of how the future V/C ratios compare to existing V/C ratios.

Systemwide Transportation/Circulation Impact. The DEIR (P. 105) defines this criterion as follows: "(On a TRANPLAN systemwide basis:) All three of the following were to occur: a) a 1.5% increase in Vehicle Miles Traveled (VMT); b) a 1.5% increase in Vehicle Hours Traveled (VHT); and c) a one mile per hour decrease in average speeds." The DEIR does not provide information on existing VMT, existing VHT, or existing average speeds. Therefore, it does not provide a basis for comparison of future conditions and the calculation of changes in VMT, VHT, or average speeds.

Corridor or Screenline Impact. The DEIR (p. 106) defines this criterion as "A screenline volume-to-capacity ratio that is less than 0.90 under the base case to equal or exceed 0.90." Because the DEIR does not provide information on existing screenline volume-to-capacity ratios, it cannot compare projected future conditions to the existing conditions.

The DEIR states (p. 106), that "the amount of development allowed by implementation of the General Plan with a UGB would be the same as that allowed by implementation of the General Plan without the UGB," and "The base case traffic is the same as the project traffic." It thus ignores (1) the potential for differences in the locations of new/intensified development within the UGB as a result of the project and (2) the potential for regional traffic impacts related to leapfrog development. As a result, the statement of cumulative impact (same with or without the UGB) is not supported.

RESPONSE: The City of San Jose tries to improve its methodology and information sources over time. While the City has used TRANPLAN for over 20 years, the model itself as well as the information used in it has improved. In part because of some of the same

concerns expressed in the letter from Smith Engineering which was included with this letter, the significance criteria used to evaluate impacts identified in TRANPLAN model was modified by City staff to those criteria identified on pages 105 and 106 of the DEIR.

The point of this comment is not, however, that the criteria show significant impacts, or even that different criteria would show significant impacts, but that the DEIR did not call out more development at infill sites and at outlying locations as being a result of adoption of the UGB. Since the UGB does not change the amount of development that is already allowed at infill locations, it *cannot* cause development to exceed what is allowed under the existing General Plan. Since no urban development is allowed in the Greenbelt now, there can be no development "forced" to "relocate" to some hypothetical outlying location.

COMMENT: Air Quality

Significance criteria defined for the DEIR are different from those used in the General Plan EIR. In this DEIR, an impact is defined as significant (DEIR p. 121) if it will (1) cause population growth within the City of San Jose Sphere of Influence to exceed the projections in the Clean Air Plan, (2) cause the rate of increase in VMT within the City of San Jose Sphere of Influence to exceed the rate of increase in population, or (3) alter air movement, moisture, or temperature, or result in any change in climate.

The General Plan EIR, in contrast, uses the significance criteria from the CEQA guidelines: "a project would normally be considered to have a significant effect on air quality if the project violates any ambient air quality standard, contributes substantially to an existing air quality violation, or exposes sensitive receptors to substantial pollutant concentrations" (p. 102 of the General Plan FEIR). The DEIR does not provide the information needed to address these criteria.

As discussed below, the DEIR does not provide adequate information to address the first two criteria it purports to adopt. It does not address the third criterion at all.

Population growth within the City of San Jose Sphere of Influence exceeding the projections in the Clean Air Plan. The DEIR states that the inclusion of a UGB "will not cause estimated population to exceed Clean Air Plan projections, nor will it cause VMT to increase faster than population in the City of San Jose Sphere of Influence." It does not, however, provide information about the population projections contained in the Clean Air Plan; therefore, it cannot address this criterion. The DEIR relies on the assertion, made in the Land Use section of the report, that the adoption of a UGB "will not result in any increase in population beyond the currently estimated holding capacity of either General Plan." It goes on to note that "the adoption of the UGB will not itself cause any growth to occur in the City or the County."

Actually, the adoption of a UGB may well *decrease* population growth in the County, because some portion of the households not accommodated within the San Jose SOI as a result of the project are likely to find housing in out-of-county communities such as Hollister, Los Banos, and the communities of Santa Cruz County.

Rate of increase in VMT within the City of San Jose Sphere of Influence exceeding the rate of increase in population. The DEIR does not identify the projected rate of increase in VMT within the San Jose SOI, nor does it identify an expected rate of increase in population. (As noted above, it deems the ABAG *Projections 98* population projection for 2010 to be "generally consistent" with the population projection used during the General Plan update, even though the more recent ABAG figure is 10 percent higher. The DEIR does not, however, either adopt a new population projection or discuss changes in population growth that would result from adoption of a permanent UGB.)

RESPONSE: The source of the first two air quality thresholds is clearly identified in the DEIR (page 121) as the April 1996 Bay Area Air Quality Management District CEQA Guidelines (note the date). BAAQMD now recommends that General Plans and General Plan amendments use these criteria to determine the significance of air quality impacts. Since BAAQMD is the Responsible Agency for air quality in the Bay Area, their standards are used to determine significance for air quality impacts. As to why this DEIR does "not provide the information needed to address" the criteria in the General Plan EIR, there is no reason why this DEIR should address significance criteria in a different EIR certified several years ago. This letter, in fact, objected to reusing the information from the General Plan EIR on other issues.

The DEIR does provide information on the population projections of the Clean Air Plan. On page 13, the DEIR states that "Since the growth projections in the Clean Air Plan are based on General Plan buildout and the project does not propose to increase the number of jobs in the General Plan buildout assumption, this project is consistent with the Clean Air Plan." It should also be noted that the project does not propose to increase the number of dwelling units in the General Plan buildout assumption.

The DEIR does address the projected rate of increase in VMT due to adoption of the UGB. On page 121, the DEIR states:

"...the addition of the UGB to the existing General Plans will also not result in any increase in VMT, VHT, or a decrease in average speed within the existing or planned transportation system, nor will it change the rate of increase for VMT."

With regard to the issue of increase in population, the DEIR does address the projected rate of increase; on page 121, the DEIR states:

"...the proposed addition of the UGB to the City and County General Plans will not result in any increase in population beyond the currently estimated holding capacity of either General Plan."

This statement is consistent with the discussion on population, housing and employment found on pages 29 through 31 of the DEIR.

COMMENT: Other Significance Criteria

Significance criteria for other environmental topics - visual and aesthetic quality, flooding, drainage, and water quality, noise, energy, geology and soils, hazardous materials, vegetation and wildlife, and utilities and service systems - are discussed in the appendix to this memo.

Appendix
Detailed Discussion of Significance Criteria
Not Discussed in the Memorandum
That Are Defined but Not Addressed in the DEIR

Visual and Aesthetic Quality

Substantially block existing views of scenic vistas or resources.

The DEIR does not address this criterion.

Produce substantial light or glare, such that it poses a hazard or nuisance.

The DEIR does not address this criterion.

Introduce new development which will substantially detract from the integrity, character and/or aesthetic environment of the area.

The DEIR does not address this criterion directly, but acknowledges cumulatively significant impacts (with or without the UGB) associated with the development of designated land uses and supporting public facilities, including development of the Urban Reserves. The DEIR should address the impacts of more intensive development on existing areas of the City.

The EIR contains one impact statement about cumulatively significant visual impacts, but it is not explicitly related to any of the significance criteria.

Geology and Soils

***Result in development or infrastructure being constructed on a site with geologic features which would pose a substantial hazard to property and/or human life (ie., an active fault or active landslide.**

The impact statements in the EIR do not focus on faults or landslides; instead, drawing -from the General Plan EIR, they name hazards associated with weak/expansive soils, erosion, and grading in serpentine soils.

***Expose people or property to major geologic hazards that cannot be mitigated through the use of standard engineering design or seismic safety design techniques.**

The DEIR does not address this criterion. The conclusion of this section of the DEIR, however, states, "No mitigation is required to reduce impacts of adopting the UGB, because the UGB will not cause significant soils and geologic impacts."

***Flooding, Drainage, and Water Quality**

Increase the potential for flood-related property loss or hazard to human life.

The DEIR does not address this criterion. The conclusion of this section of the DEIR, however, states, "No mitigation is required to reduce impacts of adopting the UGB, because the UGB will not cause significant soils and geologic impacts."

***Significantly increase peak stormwater runoff.**

The DEIR asserts (p. 54), "Adoption of the UGB by the City and County would not change the amount of either existing or planned development, would not increase the amount of land developed, nor would it permit increased intensity of development. Adoption of the UGB would not, therefore, cause or increase runoff or flooding impacts."

As noted above, intensification of development within the UGB is one likely impact of the project, because some development that would have occurred on sites at the USA boundary (with expansion of that boundary) will be displaced to sites within the UGB, and, according to the General Plan, the City can accommodate more housing units than projected in the Plan. If intensification occurs, then the amount of impervious surface is likely to increase, resulting in increased runoff. Similarly, changes in the infill locations of development may overload existing drainage facilities in infill areas that were not originally expected to accommodate intensified development.

***Significantly increase stormwater pollution discharges to stormwater systems.**

The EIR acknowledges "Increases in nonpoint pollution resulting from implementation of the existing San Jose and Santa Clara County General Plans with or without the UGB would result in cumulatively significant water quality impacts," and goes on to state that impacts with the UGB would be the same as already anticipated from implementation of those plans.

***Substantially degrade water quality.**

Same as the previous point.

Cultural Resources

*** Cause a substantial adverse change in the significance of a historic resource.**

EIR notes potential cumulatively significant impacts on historical resources with or without the UGB, as a result of development of the residential uses allowed for within the intensification corridors. It is possible that increased intensification would increase the pressure on historic resources, depending on the strength of the protections that are in place.

***Cause damage to an important archaeological resource.**

EIR notes potential cumulatively significant impacts on archaeological resources with or without the UGB, as a result of subsurface activity associated with development.

Hazardous Materials

The DEIR discussion of impacts related to hazardous materials is general, stating that implementation of the City and County General Plans with or without the UGB could result in

cumulatively significant hazardous materials impacts associated with future residential and other sensitive uses on potentially contaminated sites or in existing industrial areas, and from the release of hazardous materials from future industrial or commercial developments or (on?) uses in residential or other sensitive areas. The significance criteria are not discussed in particular.

***Expose people to a significant risk associated with the storage, use, and disposal of hazardous materials, or existing hazardous materials contamination on the site.**

The DEIR does not address this criterion.

***Pose a hazard to people or animal or plant populations.**

The DEIR does not address this criterion.

***Create a public health hazard.**

The DEIR does not address this criterion.

***Vegetation and Wildlife**

The DEIR does not address, in any meaningful way, any of the following criteria:

***Directly or indirectly affect (i.e., through habitat loss) a candidate or listed threatened or endangered species.**

***Directly affect species protected, under provisions of the Migratory Bird Treaty Act (e.g., Burrowing Owls and nesting raptors.**

***Result in an impact to wetlands of greater than one-tenth acre.**

***Result in an impact of greater than one acre of sensitive habitat (e.g., riparian areas, oak woodland, serpentine grassland).**

***Interfere substantially with the movement of any resident or migratory fish or wildlife species.**

***Substantially reduce the habitat of a fish, wildlife, or plant species or cause a species to drop below self-sustaining levels.**

EIR identifies a cumulatively significant impact on special status species by reducing their habitats.

The EIR also notes a cumulatively significant impacts resulting from losses of ordinance-sized trees. This criterion is not listed in the EIR.

Noise

Result in a substantial change in ambient noise levels.

The DEIR relies on the noise analysis of the General Plan EIR to conclude that there-would actually be a decrease in some noise levels as a result of extensions of the light rail transit system included in the General Plan. This approach ignores the potential intensification and geographic redistribution of development as a result of the UGB and other conditions that might have changed since the General Plan EIR was prepared.

Expose people to noise levels in excess of established local or state standards.

The DEIR states, "Implementation of the existing San Jose and Santa Clara County General Plans with or without the UGB would result in cumulatively significant noise impacts as a result of residential and other noise sensitive uses being exposed to excessive noise levels. These impacts would be the result of development of designated land uses allowed by the General Plans already, and would not be the result of adoption of the UGB. Many of the noise impacts will be mitigated or reduced by adherence to existing policies."

In drawing only this conclusion, the DEIR fails to consider that exposure to noise is a site-specific condition. It also fails to consider the fundamentally different conditions that will result from adoption of an immovable UGB: because some of the residential development that would have located at the edges of an expanded USA will instead located in intensified sites within the UGB, (1) increases in noise levels will result from increased traffic within a limited area and (2) a greater number of residents will be exposed to existing or increased noise levels.

Energy

***Encourage activities which result in large amounts of fuel, water, or energy.**

The DEIR notes that development outside the existing USA would require greater amounts of energy to transport water supplies. It does not, however, address the increase in fuel consumption that would be necessary to transport residents displaced to distant leapfrog sites (beyond the San Jose SOI) by the preclusion of housing development at expanded edges of the USA.

***Use fuel, water, or energy in a wasteful manner.**

The EIR asserts that implementation of the General Plans would not cause excessively wasteful or inefficient use of energy.

Utilities and Service Systems

***Exceed published national, state or local standards relating to solid waste or litter control.** Standards are not identified, and this criterion is not addressed.

***Adversely affect a major utility line or facility.**

The DEIR repeats information from the General Plan EIR about localized impacts on sanitary sewer lines. It does not reconsider the locations identified based on the potential for intensified development within the UGB, because it claims (p. 141) that adoption of the UGB "would not result in more intense development in the Intensification Corridors than is already allowed by the City's General Plan."

***Result in a substantial increase in the demand for public services.**

***Exceed the capacity of public service facilities to such an extent as to create a safety or public health hazard.**

***Use fuel, water or energy in a wasteful manner.**

This one is a repeat from energy, and is not addressed in this section.

Availability of Public Systems

No significance criteria are identified.

Fire Protection

In the discussion of Fire Protection, the DEIR does not address the potential impacts of intensified urban development within the UGB on the ability of the Fire Department to continue to provide service at an acceptable level.

***Police Protection**

(Impacts on demand for police protection are not CEQA impacts.)

***Schools**

The DEIR states (p. 149), "It is anticipated that implementation of the San Jose General Plan will include construction of some new schools and/or expansion of existing schools... by not allowing development in the hillsides, school capacity would not be necessary in any area of the city not already identified as needing additional capacity." It further states (p. 150), "There is also vacant and underutilized land within the USA which could be used to construct new school facilities within or adjacent to the neighborhoods they would serve."

These statements ignore the following concepts:

Any new school sites would have to come out of the residential land inventory, consequently decreasing the pool of available sites for residential use;

Sites within the urbanized area are more expensive than sites in outlying areas, and so would be more expensive for the school district(s) to obtain (which could result in higher impact fees on or less adequate funding from new development);

Developers in outlying areas, especially those with large sites, can often be required to dedicate land for schools, and this option would not be available on smaller sites and infill sites;

Areas already identified as needing additional capacity already are deficient, with no remedy in sight. The addition of student to these areas would exacerbate deficiencies. The EIR does not identify any strategies for providing additional school sites or facilities in these areas other than to note the availability of vacant and underutilized land.

Parks

The DEIR states that increased demand for new park facilities is not an environmental impact; that buildout of the General Plan will result in the construction of new parks and recreational facilities in new developed areas, and may include expansion of existing facilities, and that the development of new facilities would create physical changes but construction of new parks in conformance with General Plan goals and policies is not anticipated to cause adverse environmental impacts.

Our comments on the Negative Declaration with respect to parks focused on the increased park acreage needed to meet the City's park standards for additional population within the urban area that would not have located there in the absence of an immovable UGB. This DEIR does not provide an estimate of how much intensification might occur, and by how much the need for park land would increase as a result. At a minimum, the EIR should indicate the maximum potential increase in population that could be accommodated by the General Plan and the amount of additional park acreage that would be needed to serve that population.

Can it be decided that increased demand for park acreage is not a CEQA impact?

*Libraries

Conclusions about libraries are appropriate.

RESPONSE: The appendix is included with the complete copy of the comment letter in Section V of this Amendment. Although the appendix is entitled "Detailed Discussion of Significance Criteria Not Discussed in the Memorandum That Are Defined but Not Addressed in the DEIR", it is not a "detailed discussion" but a list with various bullets. Since the list was not included in the comment letter, it is not responded to in detail. Instead, the following list of references indicates where impacts related to each of the significance criteria itemized on the list is discussed in the DEIR.

- Blocking existing views (pages 35, 36, 37)
- Producing light or glare (no light or glare impacts were identified)
- Detracting from integrity/character/aesthetic ((pages 35, 36, 37)
- Active faults or landslides (pages 45, 46, 47)
- Major geologic hazards (page 47)
- Flooding (pages 54 and 55)
- Increased stormwater (pages 54 and 55)
- Storm water quality (pages 55 and 56)
- Historic resources (pages 63, 64 and 65)
- Archaeological resources (page 63)
- Risk of hazardous materials (pages 70 and 71)
- Pose a hazard (page 72)
- Public health hazard (no public health hazard was identified)
- Candidate species (pages 84, 85 and 86)
- Migratory birds (pages 84 and 86)
- Wetlands (page 85)
- Sensitive habitat (pages 84 and 85)
- Interfere with movement (page 85)
- Substantial habitat loss (page 85)

- Substantial change (pages 129 and 130)
- Expose people (pages 130 and 131)
- Solid waste standards (pages 139, 142 and 143)
- Major utility line/facility (no impacts to utility facility identified)

Remainder of the list includes comments on service system capacities, which are addressed on pages 147 to 152, to the extent that the demand for service systems could be considered an environmental impact.

13. RESPONSES TO COMMENTS RECEIVED FROM SMITH ENGINEERING & MANAGEMENT DATED JUNE 29, 1998

COMMENT: At the request of Sheppard, Mullin, Richter & Hampton LLP, I have reviewed the Draft Environmental Impact -Report (DEIR) on the proposed City of San Jose Greenline/Urban Growth Boundary (UGB). This letter documents the findings of my review.

QUALIFICATIONS TO PERFORM THIS REVIEW.

I am a registered Civil and traffic engineer in California and have been practicing as a traffic and transportation engineering consultant in the Bay Area for 30 years. In my engineering practice I have prepared and reviewed the transportation elements of numerous environmental documents, including ones on General Plans and General Plan amendments. I am familiar with the San Jose area, with the transportation analysis techniques employed in the DEIR and with the transportation data base available for the San Jose area. My resume is attached.

RESPONSE: This information does not relate to the environmental document. Although reference is made to Mr. Smith's familiarity with San Jose, there is no indication that Mr. Smith has recent experience in or with San Jose or Santa Clara County. Mr. Smith's general qualifications as a traffic engineer are acknowledged.

COMMENT: SUMMARY OF FINDINGS

The transportation component of the DEIR is inadequate as circulated for a number of significant reasons. Some of the primary reasons are as follows:

If the purpose of the proposed UGB is to prevent urban development in the "Greenbelt," (i.e., the area within the City of San Jose's Sphere of Influence but outside the proposed Urban Growth Boundary), the UGB will clearly have significant transportation impacts. To the extent that, absent adoption of the UGB, the "Project" that is the subject of the DEIR development would have continued to occur in the greenbelt area outside the proposed UGB, then traffic and transportation patterns would be altered. The alteration of transportation patterns would happen either within the urbanized areas of San Jose in the regional approach corridors to San Jose or in both places. This is because adoption of the UGB will force development that would have occurred in the Greenbelt to take place either as additional infill within urban San Jose or as 'leapfrog' development at the area's fringes or some of both. When development location shifts caused by the UGB occur as densification within urbanized San Jose, it will increase traffic pressure on key freeways, expressways and arterial intersections

already operating in deficiency conditions or that are on the verge of becoming deficient. When development shifts caused by the UGB occur as growth in distant communities at the fringes of the region, the UGB will increase traffic pressure on regional gateway corridors already operating in deficiency conditions. Hence, there is every reason to expect the likelihood of transportation impacts of the UGB. Since conditions of deficiency are extensively projected on transportation system in the urban core that would be impacted by infill development traffic and on the regional gateway corridors that would be impacted by leap-frog development traffic, it is probable that those impacts would be significant. These effects of the UGB on transportation are not evaluated in the DEIR.

RESPONSE: The assumptions upon which this comment is based are false. The UGB is not intended to “prevent urban development” assumed to occur in the Greenbelt absent the adoption of a UGB. Since existing City policies preclude near term development in the Greenbelt (“near term” defined as within the existing General Plan horizon), it is not clear what the phrase “development that would have occurred in the Greenbelt” could possibly be defined to mean. The UGB is not proposed to cause “additional infill” or development on the “area’s fringes”. The UGB cannot cause infill “densification” in excess of what is allowed by the existing General Plan, nor can it cause infill development to be approved that does not conform to existing General Plan levels of service (LOS) policies, including traffic LOS. Any subsequent proposal to amend the General Plan to allow denser or more or different development would require a General Plan amendment and would be subject to additional CEQA review.

The likelihood of San Jose’s adoption of a UGB causing development outside Santa Clara County is discussed in Section IV. Secondary Impacts in the DEIR.

COMMENT: In point of fact, the transportation analysis in the DEIR is not an assessment of the proposed UGB. It is simply an analysis of transportation impacts resulting from build-out under the Land Use Element of the City’s 2020 General plan. There is no assessment of the transportation consequences associated with the proposed UGB project. Development history in San Jose includes numerous alterations of the Urban Services Area (USA) and development in the Greenbelt area. In recent years the City Council expanded the USA to permit development of the Silver Creek Valley Country Club, California Oaks, the Emerald Heights and Ryland Homes projects at Richmond Ranch, Cerra Plata, Bettencourt, Hillstone, development in the Evergreen foothills and the Levin/Shea Homes project. The Association of Bay Area Governments forecast of housing demand for San Jose during the span of the 2020 General Plan indicates that demand for new dwelling units will exceed the projected demand under the 2020 General Plan by thousands of units. Given this excess demand and the published current pattern of permitting development in the Greenbelt, there is every reason to expect that under a continuation of present policies (that is, without the proposed UGB), a substantial portion of this excess housing demand would be met by additional development in the Greenbelt. For the transportation analysis of this DEIR to be adequate, it must define and evaluate a “baseline” land use and transportation condition that reflects accommodation of a reasonable portion of the excess housing demand in the Greenbelt through the year 2020 under continuation of present policies. This is generally referred to as the “Future No Project” analysis. The DEIR should then “analyze the transportation impacts of the proposed UGB project through the year 2020. This would require a reasonable redistribution of those units that otherwise would have been developed in the, Greenbelt under policies. This is generally referred to as the “Future With Project” analysis. Only by comparison of the results of the Future No Project and Future With Project analyses is the transportation impact of the UGB project properly disclosed. The DEIR presents no such evaluation.

RESPONSE: There are two issues raised in this comment: (1) since San Jose has expanded its USA many times in the past, it is inevitable that San Jose will do so in the future; (2) the DEIR should have analyzed future scenarios in which development was included in the Greenbelt.

- * The concept of frequent revisions of the USA is a subjective opinion. The “many” projects listed in this letter were included in three USA revisions: The Silver Creek Planned Residential Community (Silver Creek Valley Country Club, Cerra Plata, Bettencourt, Hillstone), Levin/Shea Homes, and the Richmond Ranch (California Oaks, Emerald Heights and Ryland Homes). It is not clear what development in the Evergreen hills is referenced, since development below the 15% slope line/Evergreen Canal in Evergreen has been contemplated for many years. For each of these projects, a determination of which land was below the 15% slope line was made and an appropriate amount of development was approved for the remainder of the site. Lands above the 15% slope line were designated to remain in non-urban uses. This fine-tuning of where the non-urban limit line was actually located was fully consistent with the General Plan approved by the City in 1976 (*GP '75*) and with each of its subsequent updates.

The assumption that because the City has expanded its USA boundary in the past, it must do so again is wrong. Since San Jose’s General Plan was revised in 1976 to recognize the extraordinary cost and environmental impacts of unlimited sprawl, planning for the City has recognized the need to encourage infill development and limit development on the urban fringe to those areas where municipal services can be efficiently provided. As property owners have come forward with realistic proposals to develop outlying lands below the 15% slope line, the City has allowed limited expansion of its urban limit line. In addition, the City has modified its definition of which specific lands should be considered developable as additional information on specific physical conditions has been provided.

The City does not agree that it would be responsible professional engineering practice or good planning to hypothesize a “Future No Project” condition that arbitrarily assigns development potential to lands which the City’s existing General Plan specifically identifies as unsuitable for urban development. The discussion on page 163 of the DEIR (“Development Under Existing General Plan Policies”) explains that the City believes that the implementation of the existing General Plan, not just its land use designations but its goals and policies, would result in the basically the same horizon year scenario that is anticipated from the project scenario.

COMMENT: The data, methodology, measures of impact and thresholds of significance employed in the DEIR transportation analysis are inadequate even if reasonable “Future No Project” and “Future With Project” evaluations had been considered. The DEIR uses outdated and misleading data regarding existing traffic conditions including traffic volume data and intersection Level Of Service (LOS) data that is at least 5 years old. The LOS information in the DEIR understates, existing conditions that are deficient or on the immediate threshold of becoming deficient at twenty-eight major intersections in the City that are of such importance as to be designated in the County-wide Congestion Management Plan (CW) system. The DEIR uses as measures of impact forecasts of “vehicle miles traveled” (VMT), “vehicle hours traveled” (VHT) and “average vehicle speed” (AVS). These are crude aggregate measures that may simply be measures of satisfactory utilization of the transportation network rather than indicators of impact. They are too ambiguous to be used as

criterion of impact. In fact since speed or travel time may be adjusted without respect to actual conditions as a way of fine-tuning the accuracy of the base year traffic volumes forecast by the model VHT and AVS would be just derivatives of a variable that is freely adjusted to get the volume forecasts right, not attributes that are representative forecasts of future conditions. As such they would be totally unsuitable as criterion of impact. In addition, the DEIR fails to include a detailed intersection-by-intersection capacity/level of service analysis for major arterial and expressway intersections that is the accepted means of evaluating traffic impacts in an EIR. Such detailed analysis is needed to disclose the true transportation impacts of redirecting growth inside the proposed UGB. Also, DEIR is unclear as to what transportation forecast model was actually employed in its analysis. Page 99 of the DEIR and page 18 of Appendix A state that the Metropolitan Transportation Commission (MTC) regional model was used. Page 105 of the DEIR and page 2 of Appendix A indicate that the City of San Jose's TRANPLAN model system was used.[The 2020 General Plan EIR presents a similar confusion about what model was used. Page 70 of Volume I and page 21 of Volume-II, Appendix A state the MTC model was employed. Page 78 of Volume I and pages 3, 40 and Appendix A-1 of Volume II, Appendix A indicate that the City of San Jose model was used. The parallelism of this point of confusion in the UGB and 2020 General Plan EIR documents highlights a broader observation. In a close comparison of this DEIR to the 2020 General Plan EIR, it seems evident that this is little more than a superficial editing of the 1994 document.] If the MTC model was the primary tool, its' representation of the transportation system and analysis zone structure is insufficiently detailed in San Jose to provide the level of analysis needed to assess impacts of growth that is redirected internally within San Jose. On the other hand, to the extent that creation of the UGB displaces development that would otherwise have occurred on San Jose's urban fringe to more distant communities, the City's TRANPLAN model is not well suited to disclosing traffic impacts this development shift would cause on the region's gateways. The San Jose model provides insufficient detail of the transportation system in those areas to properly impact there.

RESPONSE: The City does not use near term LOS calculations for evaluating long term traffic impacts. The "screenline" analysis produced by the TRANPLAN model is a detailed comparison of projected future traffic volumes and planned roadway capacities at representative locations throughout the modeled study area. It is not possible to accurately predict "intersection-by-intersection capacity/level of service" conditions for every street and expressway 13 to 20 years into the future.

[This comment keeps referring to Appendix A of the UGB DEIR, which is the text of the proposed Municipal Code and General Plan Amendments, as well as to Appendix A of the *San Jose 2020 General Plan FEIR*, which contains responses to the Notice of Preparation. It is assumed that the comments intended to refer to Appendix D of the UGB DEIR, and to Appendix E of the *San Jose 2020 General Plan FEIR*, which are the traffic analyses.]

San Jose does not believe that the type of analysis used for near term traffic (predictions of turning movements, levels of service at specific signalized intersections, etc.) is a meaningful tool for long term, general plan level analysis. San Jose therefore consistently uses TRANPLAN, a computerized model that evaluates long term traffic behavior throughout San Jose's Sphere of Influence. The description in Appendix D of the DEIR acknowledges the limitations of TRANPLAN, particularly with regard to the transportation system outside the County. Despite its limitations, TRANPLAN is the best available tool for the type of analysis appropriate here, and is **consistently** used by San Jose for its General Plan amendment processes.

It represents an ongoing measure for comparing analyses done over time, as well as a mechanism for evaluating individual changes in the City's General Plan.

The comment questions the use of TRANPLAN, the City's model versus the use of a regional model, such as the MTC. The MTC model was used to forecast traffic volumes, as stated in Appendix D. The MTC model, however, has less detail than the TRANPLAN model and would not work as well for the purposes of analyzing a land use change.

San Jose's TRANPLAN model has been designed to produce forecasts of future traffic volumes on roadway segments. These forecasts are based on average trip making rates, average travel speeds, roadway segment distances and vehicular capacities. The vehicular capacities of the individual roadway segments are directly derived from the amount of downstream intersection "green-time" and are consequently very representative of the approach lane capacities at the downstream intersections. As stated earlier, the "screenline analysis" used by the City is a detailed comparison of projected future traffic volumes and planned roadway capacities at representative locations throughout the modeled study area. Prospective development scenarios can be readily compared using this analysis method.

The statistic called vehicle miles of travel is computed by multiplying each roadway segment's forecasted traffic volume times the length of the roadway segment. This simple and basic value is a direct measure of the quantity of travel associated with a specific analysis scenario. In this circumstance, one can easily see how directly it relates to the analysis of the proposed UGB policy. If the UGB policy helps contain development within the existing USA, then one would expect the transportation analysis to show a total number of vehicle miles of travel value that would be less than if development were permitted within the Greenbelt. This would be the expected outcome because development outside the UGB would generally require longer trips for most, if not all trip purposes, although the trips **would be on many of the same roadways**.

The statistic called vehicle hours of travel is computed by summing the travel time of all vehicular trips. This statistic shows how much travel time is projected in connection with a specific analysis scenario. In general, it is desirable to minimize this value when evaluating transportation and land use plan alternatives. Higher values of vehicle hours can be due to increased congestion and/or longer trip lengths.

Combining the vehicle miles of travel and the vehicle hours of travel statistics allows the computation of a derived average speed. This computed value provides a good, simple, and easily understood overall measure of a development proposal's impact on projected travel speeds. Generally, if the transportation analysis shows a decrease in travel speed, then one can infer that the alternative is making traffic congestion worse.

COMMENT: An adequate EIR transportation analysis on the project would include the following

- 1) Baseline data that indicates current traffic conditions not those of five years ago.

RESPONSE: As indicated in response to specific comments, the revised text revisions include the information included in this letter. The updated information on existing traffic congestion does not change the anticipated future conditions projected in the DEIR, which are predicated on changed travel behavior resulting, in part, from the development patterns encouraged by the General Plan.

COMMENT: 2) The transportation impact analysis for an EIR should include a detailed comparison of future transportation conditions as they would be under a continuation of existing General Plan policies, the baseline "Future No Project" condition versus future transportation conditions as they would be under the proposed policies, the "Future With Project" condition. The differences in transportation conditions in this comparison constitute the transportation effects of the project. The significance thresholds described below indicate whether those transportation effects constitute significant impacts.

RESPONSE: The DEIR does include a "detailed comparison of future transportation conditions as they would be under a continuation of existing General Plan policies". What this letter writer apparently means by this statement, according to other comments in this letter, is that the City should hypothesize about future sprawl in the Greenbelt, which the City and County consider incompatible with existing General Plan policies. The City does not agree that such a scenario would accurately represent a "Future No Project" condition. The "Future With Project" condition is, the City believes, the same in terms of traffic as the "Future No Project" condition.

COMMENT: 3) "Significance thresholds" are the criterion used in an EIR to indicate when the measures assessing transportation system performance show that the effect of a project on the transportation system is a significant impact. In the evaluation of the "Future No Project" and "Future With Project" scenario in the screenline volume-to-capacity ratio analysis used in the 2020 General Plan EIR should continue to be employed as a measure of transportation system performance, However, the significance threshold of causing the volume to capacity ratio (VCR) to exceed .90 should be augmented to include a measure of impact where traffic is added to a screenline that already exceeds a VCR of .90. In addition to the screenline analysis, another transportation system performance measure should be added. This measure is intersection capacity utilization/level of service analysis for all CMP system intersections in San Jose.[Such analysis is required under California Government Code Sections 65088-65098.10] The analysis should conform to the Santa Clara Valley Transportation Authority Congestion Management Plan (CMP) procedures including impact significance thresholds per *the Congestion Management Program Transportation fact Analysis Guidelines*.

RESPONSE: The City uses a combination of increases in vehicle miles, vehicle hours and average speed as a threshold, in addition to screenline criteria. For screenlines operating in excess of .90 V/C, various factors such as location, number of trips, type of land use, etc., are analyzed to determine if additional development could have a significant impact. The reference to the need to prepare a CMP analysis is apparently based on the mistaken assumption that the proposed UGB is a development project. As indicated in the letter from the Valley Transportation Authority, which is also the CMA for Santa Clara County [Section IV(B)(2) of this Amendment to the DEIR], no Transportation Impact Analysis (TIA) is required for the proposed UGB.

COMMENT: 4) The transportation analysis should make appropriate use of and the EIR should coherently describe the use of the transportation forecast models available to the analysis. Specifically, a broader regional forecast model - Santa Clara County's or MTC's rather than San Jose's TRANPLAN model should be used where a comparison of the "Future No Project" and the region (where the City of San Jose's own transportation forecast model would not reasonably forecast transportation impacts). For assessment of transportation impacts within San Jose and central Santa Clara County, the San Jose TRANPLAN model should be employed.

RESPONSE: Language clarifying which model was used for which portion of the analysis is added to the EIR in **Section V. Revisions to the Text of the Draft EIR**, in this Amendment. The MTC model would not be an appropriate tool for use in long term land use evaluations. The model has restrictions related to funding of infrastructure that limit its horizon year, and does not include the amount of detail about some neighboring jurisdictions, including San Benito and Santa Cruz Counties, which is found in the TRANPLAN model. San Jose's TRANPLAN model includes infrastructure which is planned but not yet funded because it looks at an horizon year that is beyond the capital funding timelines for most jurisdictions. It also includes the freeways and certain connectors in distant counties, which are the travelways most likely to be utilized by commuters into or out of San Jose.

5) The DEIR should include recommended mitigation measures where analysis determines that the project would have significant traffic impacts.

* Because of the severe inadequacies of the DEIR, the transportation section should be entirely redone. Because of the extensive changes required, the DEIR should be recirculated as a draft document.

RESPONSE: The TRANPLAN model run used to evaluate the traffic impacts of the adopted General Plan with a UGB in place represents what the City of San Jose believes is a representative evaluation of the likely future conditions. Redoing the analysis to arbitrarily place development in the Greenbelt, based on the only criteria available (whoever has requested such development), would not represent a good faith analysis. The model run used in the DEIR represents what the City and County believe will be the true impact of adopting the UGB.

COMMENT: DETAILED COMMENTS

The DEIR's Transportation Analysis Is Conclusory And Fails To Consider Probable Significant Transportation Impacts Of The UGB Project.

Although the transportation component for the DEIR occupies a bulk of 64 pages of text, tables and figures, its content is limited to one conclusory assertion. That assertion is as follows: On the presumption that the UGB Project will cause no difference in future land use development from the existing General Plan, the UGB Project can have no significant transportation impacts or require transportation mitigation since transportation patterns and effects with its adoption would be identical to those under the existing General Plan.

As indicated in our initial summary, the initial premise in the above assertion - that there would be no difference in land use development pattern with or without the proposed UGB Project-defies reason and logic. If the City was not concerned that additional development will occur in the Greenbelt

without the UGB, there would be no need for the UGB in the first place. There is direct evidence of previous development in the Greenbelt and demand for further development in the Greenbelt. In recent years the numerous development in the Greenbelt have included the Silver Creek Valley Country Club, California Oaks, the Emerald Heights and Ryland Homes projects at Richmond Ranch, California Oaks, the Emerald Heights and Ryland Homes project at Richmond Ranch, Cerra Plata; Bettencourt, Hillstone, development in the Evergreen foothills and the Levin/Shea Homes project. The Association of Bay Area Governments forecast of housing demand for San Jose during the span of the 2020 General Plan indicates that demand for new dwelling units will exceed that provided for under the 2020 General Plan by thousands of units clearly evidencing a demand that would likely be met by new development authorizations in the Greenbelt under current policies.

Therefore, it must be assumed that the future land use development pattern would be different with adoption of the UGB than under the existing General Plan policies, and that future transportation patterns and effects must be different with adoption of the UGB than under the present General Plan. The crucial question, then, is this: Will these differences in future transportation patterns and trips with adoption of the UGB result in significant transportation impacts? The DEIR inadvertently sheds some light on this question, leading to a conclusion that it is opposite to the DEIR's summary dismissal of the possibility of significant transportation system are already critically close to or exceeding significant impact thresholds and that even small changes in traffic would result in significant traffic impacts.

RESPONSE: The City does not assume that development will occur in the Greenbelt. On the contrary, the General Plan allows only low intensity non-urban development in the Greenbelt. It is understood that pressure for urban development will, however, continue to exist. After the City adopted *GP '75*, a General Plan which identified an urban limit line and encouraged infill development instead of unlimited sprawl, a number of expansions of the Urban Service Area (USA) were approved. The General Plan acknowledged at that time that the City knew only the approximate location of the 15% slope line (identified as the edge of the urban container), and provided for adjustments of the USA as additional information on specific physical conditions became available. Those subsequent expansions of the USA have now encompassed most of the land which General Plan criteria identify as suitable for development. The remainder of this developable land (primarily the Urban Reserves) is also included in the UGB.

COMMENT: Consider the DEIR's analysis of screenline volume-to-capacity ratios documented on Table 8 (page 111) and its threshold of significant impact when the project causes the volume-to-capacity ratio on any screenline to exceed .90. The volume-to-capacity ratio reported for several of the screenlines is already very close to .90 including the following screenlines described Table 8 (DEIR page 111). If the UGB caused even minor amounts of traffic growth at these locations, significant traffic impacts would result.

1.	West Of I-880:	.798
4.	West Zanker	.858
5.	East of I-680	.836
13.	South of Montague Exp'wy	.875
14.	South of Charcot	.846
15.	West of I-880/CA 17	.794
17.	North of Hedding	.899

18.	North of Taylor/Naglee	.894
19.	West of I-680	.816
20.	South of CA 85	.784

RESPONSE: The City's General Plan is its long term planning document. It is revised on an annual basis, and many of the revisions result in improvements in internal transportation conditions, as the Plan is revised in conformance with its internal policies. The increased intensity of residential development planned near major employment centers or along transit corridors, for example, can result in reduced long term congestion. In the past, some General Plan amendments have been specifically targeted to change historic travel patterns, such as the "Evergreen-Berryessa Swap", which redesignated both industrial and residential lands to result in more efficient use of under utilized transportation capacity. Because the General Plan is a working document, changes can result in localized improvements in predicted transportation conditions on a year to year basis.

This comment says that "if the UGB caused even minor amounts of traffic growth at these locations, significant traffic impacts would result". The comment is not meaningful. The model already includes the traffic growth which the City specifically *intends* the UGB to encourage. The General Plan (and TRANPLAN) identify the potential for infill development, both generally and at specific locations, as an intended and desired policy direction. The General Plan includes other policies that are intended to guide the location and implementation of the infill development in order to minimize localized traffic congestion and maintain the General Plan LOS goals.

COMMENT: Next, compare the location of the General Plan's Intensification Corridors displayed on Figure 3 of the UGB (page labeled 19 but actually 20) with the screenline locations shown on Figure 7 (page 92). Note that the "intensification corridor" proposed along East Santa Clara Street-Alum Rock Avenue crosses screenline 5 and the intensification corridor along the Capitol Expressway closely parallels the same screenline. Screenline 5 is projected have VCR of .836 under the General Plan development in the DEIR. At normal household trip generation rates and trip distribution assumptions, it would take a growth of only about 140 more households within these two intensification corridors under the "Future With Project" condition for a significant transportation impact to be triggered.

Another example is screenlines 17 and 18 and the intensification corridor extending along the Guadalupe Corridor (and First Street) that crosses these screenlines. Table 8 (page 111) of the DEIR indicates that these screen lines will operate at volume-to-capacity ratios of .899 and .894 under the existing General Plan. If the UGB marginally increased development in that intensification corridor, the significant impact threshold of VCR exceeding .90 would be exceeded for Screenlines 17 and 18. It seems obvious that, given the obvious demand for growth in the Greenbelt, the UGB policy that would effectively prohibit growth in the Greenbelt and redirect that growth to the designated Intensification Corridors, would trigger enough additional development in the intensification corridors to create a significant traffic impact.

RESPONSE: This comment seems to be assuming that the growth anticipated within the Intensification Corridors (particularly the East Santa Clara/Alum Rock and Guadalupe corridors), is not included in TRANPLAN. Since the General Plan does anticipate

that the Intensification Corridors will include intensification, the TRANPLAN model which resulted in the screenline levels of services addressed in this comment already includes the increased development assumptions identified in the DEIR (page 26) for the Intensification Corridors.

This comment also assumes that “demand for growth in the Greenbelt” is the same thing as approved growth in the Greenbelt, which is a false assumption.

COMMENT: Reinforcing this point is analysis presented in sections that follow demonstrating that the “existing conditions” data presented in the DEIR is seriously out of date and understates current traffic congestion conditions. If current higher traffic volumes instead of five year old data had been used in the DEIR, the volume to capacity ratio on many more of the old data had been used in the DEIR, the volume to capacity ration on many more of the screenlines than indicated in the DEIR would be very close to the .90 volume-to-capacity ratio significant impact threshold. Hence, many more locations would be sensitive to significant traffic impacts from marginal shifts in development to the Intensification Corridors caused by adoption of the UGB.

RESPONSE: This comment confuses existing conditions with the future TRANPLAN projections. While the City constantly updates TRANPLAN to reflect both General Plan Amendments and changing patterns in how the General Plan is implemented, TRANPLAN reflects forecast conditions in the year 2010. The UGB policy, and other policies and land use designations in the General Plan, are intended to encourage infill and intensification and to promote increased use of transit and higher occupancy modes of travel. In the 2010 analysis, it is also assumed that many of the transportation system improvements have been built. Existing congestion, which reflects only existing conditions, not the future, is not necessarily indicative of conditions in 2010, which is why the City does not simply add onto a near term analysis for the General Plan analysis.

COMMENT: The foregoing demonstrates that even relatively small changes in land use development pattern resulting from adoption of the UGB could cause significant transportation impacts not disclosed in the DEIR. The reasonable probability that such significant transportation impacts would occur renders the DEIR’s conclusory and dismissive transportation analysis inadequate.

RESPONSE: There is not a “reasonable probability” that a significant deviation from the land use development patterns assumed in the City’s General Plan will occur after adoption of the UGB. As stated in response to the previous comments, the analysis in the General Plan assumes quite explicitly that intensification **will** occur within the urban area. Since 1976, the General Plan has encouraged and provided for infill development. The most current TRANPLAN runs assume that the infill will occur and includes it in the land use inputs. On the other hand, it is very unlikely that any significant growth would be approved in the Greenbelt with or without, given the existing General Plan policies, so no such development is included in the TRANPLAN assumptions.

COMMENT: Obsolete And Inadequate Existing Conditions Data Base

In its documentation of existing transportation conditions, the DEIR presents as “existing conditions” data figures and tables reproduced from the July, 1994 San Jose 2020 General Plan Final Environmental Impact Report (the “General Plan EIR”). This data was accumulated in 1993 or earlier. It is obvious that many of the key data figures and tables are identical to those of the General Plan EIR document, save for superficial modifications to pagination, title blocks and borders. This information was five or more years old at time of publication of the DEIR and in many cases is superseded and no longer correct. For instance, consider Figure 6 of the DEIR, that purports to present existing Level Of Service [We defer to the UGB DEIR and to the Santa Clara Valley Transportation Authority 1997 Congestion Management Program for definition of “Level Of Service”.] at San Jose intersections that operate at Level Of Service (“LOS”) D or worse. This three-page figure is identical to Figure 27 of the General Plan FEIR. However, more recent traffic data reflects that traffic conditions have significantly changed at a minimum of 16 major intersections, each of which are of such significance as to be designated by the City on its’ Congestion Management Plan network. These sixteen intersections were reported by the Santa Clara Valley Transportation Authority (VTA) as operating at LOS E or worse in 1997. But they are either reported as operating at LOS D or are unreported in the five year old Figure 6 of the DEIR (implying if unreported that they operate at better than LOS D). These intersections are shown on Table 1.

In addition to the 16 intersections shown on Table 1 that are currently operating at deficient levels of service, but are not so identified in the DEIR, more than a dozen other intersections on the Congestion Management Plan street and highway network within the City of San Jose that the VTA reports currently as operating at LOS D have no LOS designation on Figure 6 of the DEIR. This means that the DEIR’s five year old Figure 6 incorrectly identifies them as operating at better than LOS D. Clearly, the LOS representations in the DEIR are seriously out of date.

RESPONSE: This comment is unclear, since Figure 6 in the DEIR is not represented as presenting levels of service. Figure 6 (actually Figures 6A, 6B and 6C) is entitled “Existing PM Peak Hour Traffic Volumes” and, as stated on page 99 of the DEIR, only presents information from an MTC model run. The traffic volumes were only shown to represent a point in time and do not change the conclusions about project impacts.

On page 105, the DEIR discusses intersection congestion and points out that significant congestion (LOS E and F) exists on multiple expressways and arterials. The language in the DEIR is modified in **Section V. Revisions to the Text of the DEIR**, to reflect this additional more current information.

COMMENT: TABLE 1: Deficient Existing Conditions At Congestion Management Plan Intersections Not Identified In DEIR Figure 2-6

Location	Existing LOS Per VTA	LOS Not Reported In DEIR	DEIR Reports Acceptable LOS
Alum Rock Ave.-Capitol Ave.	E		x
Alum Rock Ave.-Jackson Ave.	E	x	
Brokaw Road-First Street	E	x	
Capitol Expressway-Aborn Street	E		x
Capitol Expressway-McLaughlin Avenue	E	x	
Capitol Expressway-Quimby Road	E		x
Capitol Expressway-Senter Road	E	x	
Capitol Expressway-Silver Creek Road	E	x	
Capitol Expressway-Tully Road	E	x	
I-280 Ramps-Saratoga Avenue-South	E		x
Lawrence Expressway-Saratoga Ave.	E		x
Montague Expressway-First Street	F	x	
Montague Expressway-Thimble Road	F	x	
Montague Expressway-Zanier Road	E		x
Trimble Road-De La Cruz Boulevard	F		x
Trimble Road-First Street	E	x	

RESPONSE: The updated information in this table is accepted and is included in **Section V. Revisions to the Text of the DEIR**. This information, which reflects only existing conditions, does not change the anticipated future conditions reflected in the DEIR. As discussed earlier in response to other comments, the future General Plan conditions are assumed to include changes in travel behavior (some of which is anticipated to occur as a result of increased infill and development along transit corridors) and completion of more of the planned transportation infrastructure. This information does not change any of the conclusions in the DEIR, nor does it identify any new additional significant impacts.

COMMENT: A similar situation exists with respect to the “existing” PM peak traffic volumes reported on Figure 4 of the DEIR. Figure 4 is identical to Figure 27 of the General Plan EIR. We compared the data on Figure 4 to data presented in the November, 1997 DEIR on the proposed

Moitozo Ranch Residential Development in San Jose. The transportation analysis for that environmental document was prepared by the same consulting firm that prepared the transportation component of the UGB DEIR and the General Plan EIR. Table 2 shows a comparison of “existing” traffic volumes for those points where freeway volumes were documented in both the Moitozo and UGB DEIRs. The comparison shows that of the six common freeway locations reported in the two studies, vast differences in volume are indicated at three of the common points, significant differences in volume are indicated at two of the common points and a close similarity in volume is indicated in only one instance. It is clear that the existing major street and highway traffic volumes reported in the UGB DEIR, data that predates publication of the 1994 General Plan EIR, is obsolete and inaccurate.

TABLE 2: Comparison Of Reported Existing P.M. Peak Freeway Traffic Volumes.

Location	DEIR Volume	Mitozo Volume	% Difference
I-880 N. of Montague, Northbound	4860	6105	-25.6
I-880 N. of Montague Southbound	5020	4996	+0.4
U.S. 101 N. of Montague Northbound	5790	6105	-5.4
U.S. 101 S. of Montague Southbound	9820	7097	+27.7
I-880 N. of U.S. 101 Northbound	5020	5220	-4.0
I-880 N. of U.S. 101 Northbound	5180	6380	-23.2

Beyond the fact that existing conditions traffic count and level of service data more than a year or two old are not normally considered adequate existing conditions data in an EIR, the significance of this obsolete and inaccurate existing traffic conditions data is that it tends to minimize and conceal the likely transportation impacts of the UGB project. Consider that the objective and result of the UGB policy is to cause infill and densification of land use in the urban core of the City . The inaccurate and obsolete traffic data described above that understate the deficiency of existing traffic conditions in and close to planned infill areas makes it appear that the transportation system could accommodate the development infill that the UGB policy would cause without significant impacts. An up to date database reflecting existing traffic conditions would make evident the probable significant consequences of the UGB policy on traffic.

RESPONSE: It is not clear what Figure 4 is referenced in this comment. Figure 4 of the DEIR is entitled “Fault Traces”. Figure 2-4 of Appendix D (the traffic analysis) does illustrate PM peak hour volumes.

The DEIR on page 105 does identify a number of freeway segments as experiencing significant congestion during either the AM or PM peak hours, or both. Many of those segments are the same as or include those shown in this comment. This information, which reflects only existing conditions, does not change the anticipated future conditions reflected in the DEIR. Since the EIR is addressing a City-wide policy change, the existing conditions discussion is very general and is intended only to characterize travel behavior and overall patterns of congestion. As discussed earlier in response to other comments, the future General Plan conditions are assumed

to include changes in travel behavior (some of which is anticipated to occur as a result of increased infill and development along transit corridors) and completion of more of the planned transportation infrastructure. This information does not change any of the conclusions in the DEIR, nor does it identify any new additional significant impacts.

COMMENT: Inappropriate Measures Of Impact And Thresholds Of Significance

As three of its four principal measures of transportation impacts, the DEIR uses aggregate regional measures that are output from San Jose's traffic forecast model or derivative of output from a that model: "vehicle miles traveled" (VMT), "vehicle hours traveled" (VHT) and "average vehicle speed" (AVS). These aggregate measures of transportation system use have little meaning in distinguishing between normal satisfactory use of the transportation system and real transportation impact. These should be discarded from the analysis for the reasons set forth below.

Consider vehicle miles traveled (VMT). As the San Jose General Plan FEIR itself explains, a large aggregate VMT or an increase in VMT could mean that many people travel long distances in a satisfactory manner over a large planning area, "not necessarily to an over-utilization of the roadway system." [San Jose General Plan 2020 FEIR, page 45.] Vehicle hours traveled (VHT) is a similarly ambiguous criterion. A large aggregate VHT or an increase in VHT could be indicative of an undesirable situation where large or increased numbers of travelers are exposed to many miles of congested low speed travel on overburdened major roadways. Or it could be indicative of an entirely satisfactory situation where large or increased numbers of travelers travel in generally uncongested conditions on roadways with lower speed limits. The third criterion, average vehicle speed (AVS), is not really a separate measure of performance, it is a derivative value of the first two (VMT divided by VHT).

As with those source values, AVS is an ambiguous measure of transportation system performance. A decrease in AVS could be indicative of increased exposure to travel on overburdened facilities with congestion-lowered speeds, potentially a situation of significant transportation impact. Or it could be merely indicative of increased travel on uncongested by lower-speed limit suburban and semi-rural roadways, possibly satisfactory and non-impactful situation.

In addition to all of the foregoing, there is further reason to question using traffic modelbased VHT and AVS as significance criteria. Link speeds on the representation of the street and highway network in the transportation forecast model may be varied without relationship to actual speed conditions during the model's calibration process. VHT, although reported as a model forecast product, may be simply an irrelevant products of input and calibration manipulations to get the traffic forecast model to reasonably replicate base year count data. If link speeds have been manipulated in fine tuning the model to replicate a base year volume pattern, VHT is not a representative forecast of aggregate travel time on the transportation network. Because of this additional consideration, the reasonableness of using VHT and its derivative, AVS, as principal significance criteria is even more questionable.

The fourth measure presently defined in the DEIR, volume to capacity ratio ("VCR") on 31 pre-specified screenlines and the significance threshold of causing the VCR on a screenline to exceed a VCR of .90, should continue to be used. The measure should be modified to indicate significant impact where traffic is added to a screenline already over the .90 VCR threshold. But even this measure fails to provide the intersection level of service detail that is required by State statute [California Government Code Sections 65088-65098.10] and the Santa Clara Valley Transportation

Authority's procedures for Congestion Management Plans in cases involving major General Plan alterations such as the UGB Project. The screenline VCR measure of transportation system impact should be supplemented by an additional measure, LOS conditions at all Congestion Management Plan intersections in San Jose and the nearby areas of neighboring communities, with significant impact thresholds as defined by the Valley Transportation Authority Congestion Management Program. If a plan causes LOS to degrade beyond the CMP LOS standard at an intersection on the CMP system, then significant traffic impact would be indicated.

RESPONSE: This comment points out a number of possible misinterpretations of the TRANPLAN model that might happen if individual outputs are considered in isolation from each other. The manner in which the model results are evaluated is described in Appendix D of the DEIR, and in response to a previous comment in this same letter. The significance criteria that are used in the DEIR are multiple, and require that vehicle miles traveled, vehicle hours traveled, and average speed must all three exhibit significant deterioration in order to indicate a significant impact. While the TRANPLAN criteria may not be perfect, they represent the best tool known to the City to evaluate long term transportation capacity and compare various future land use scenarios. As stated in response to a previous comment, CMP analysis is not required for General Plan amendments.

COMMENT: As we noted above, the fourth transportation impact criterion and significance threshold posited in the DEIR, causing the volume to capacity ratio to exceed .90 on any of 31 specified screenlines, is a sensible one. It is a detailed and unambiguous indicator of significant transportation impacts of land use alternatives. However, though the criterion is articulated in the DEIR, it is really not employed. Had the screenline criterion propounded in the UGB DEIR actually been employed to properly evaluate the the redirection of growth (and therefore traffic) that would result from the establishment of the proposed RGB, it would be noted that three of the screenlines [Numbers 14, 17 and 18 on Table 8 of the DEIR] that are on the cusp of crossing the .90 VCR significance threshold are in locations that would be heavily affected by additional development in at least three of the designated intensification corridors (see DEIR Figure 3). These screenlines could easily be driven over the significance threshold by traffic from additional development in those intensification corridors. However, the DEIR transportation analysis did not consider the transportation consequences of land use development shifts that would be caused by the UGB. It limited itself to a conclusory and unsupported judgment that there would be no development shifts and no transportation impacts. Hence, the sensitivity to significant impact from development shifts evident in the VCR on the critical screenlines noted was never considered.

RESPONSE: As stated previously in response to earlier comments, the TRANPLAN run done for the proposed project does include infill development ("development shifts...caused by the UGB") at the levels anticipated within the existing USA, including the Intensification Corridors.

COMMENT: Transportation Forecast Model Inadequate For Assessing UGB Project's Impacts.

Our introductory points described in detail the DEIR's inconsistent reporting of use of the MTC and San Jose transportation forecast models. It is unclear whether the MTC model or the San Jose model or the San Jose model were used, or whether both were used and if so, what portions of the analysis were done using each. It is obvious that if the transportation impacts of the UGB were to be properly

analyzed. Neither model alone would be satisfactory. One effect of the UGB is to shift the location of the development that would otherwise have occurred in the Greenbelt. Some shifts will occur to “leap-frog” locations at the fringes of the urban region. Other shifts will result as intensification of development in the urbanized core. Assessment of transportation impacts of development at the region’s fringes requires a broad area model. Assessment of transportation impacts of intensifying development within an urbanized core requires a detailed model focused on a closely defined area.

The analysis capability of the San Jose’s TRANPLAN software based forecast model (the “TRANPLAN” model) is sharply focused on the City of San Jose and the nearby areas of Santa Clara County. In that area of its focus, the model’s representation of the street, highway and transit system is highly detailed. In that area of focus, its representation of land use development is also very detailed. The accuracy of a model’s forecasts and its sensitivity to changes in land use patterns or changes in the transportation system itself is sensitivity to changes in land use patterns or changes in the transportation system itself is greatest within its area of focus, the area where it represents the transportation and land use conditions in highest detail. However, outside its focused area, the City of San Jose and nearby parts of Santa Clara County, the San Jose model’s representation of the transportation system and land use development in the more distant areas is increasing less detailed, or as it is characterized in Appendix A of the General Plan EIR, “skeletal”. In this skeletal area, the model is not very capable of disclosing transportation impacts associated with development shifts. The San Jose model would be useful for assessing the portion of the UGB’s transportation impacts that result from infill if a scenario describing the infill development induced by the UGB was defined (which it was not in the DEIR). However, it is ineffective for assessing the impacts of leap-frog development. The principal transportation effects of that development would be in the skeletal area of the San Jose model where, in an actual attempt to assess the transportation impacts of the project, the model would be ill-suited to, if not incapable of, disclosing them.

By contrast, the MTC model is broad in area coverage and would be useful in assessing the transportation impacts of the “leap-frog” development caused by the proposed UGB project. But its rather coarse detail would be ill-suited to disclosing the transportation impacts of infill development in San Jose caused by the UGB.

In a proper attempt to determine the actual transportation impacts of the UGB project, the San Jose model and the MTC model would be used in coordination, the San Jose model concentrating on consequences of infill and the MTC model on the impacts of “leap-frog” development. The DEIR presents no indication that the models were used in any such systematic and coordinated fashion.

RESPONSE: The only use of the MTC model, as stated on page 99 of the DEIR, was to model existing traffic volumes. The TRANPLAN model and its use in the analysis is clarified in **Section V. Revisions to the Text of the Draft EIR.**

As stated previously, the MTC model would not be an appropriate tool for use in long term land use evaluations. The model has restrictions related to funding of infrastructure that limit its horizon year, and does not include the amount of detail about some neighboring jurisdictions, including San Benito and Santa Cruz Counties, which is found in the TRANPLAN model. San Jose’s TRANPLAN model includes infrastructure which is planned but not yet funded because it looks at an horizon year that is beyond the capital funding timelines for most jurisdictions. It also includes the freeways and certain connectors in distant counties, which are the travelways most likely to be utilized by commuters into or out of San Jose.

COMMENT: Conclusion

This concludes our preliminary comments on the DEIR for the proposed RGB. We believe that the DEIR fails to analyze any of the traffic impacts likely to result from the proposed project or discuss potential mitigation. Furthermore, we believe the deficiencies of the DEIR are so extensive and significant that, assuming the traffic analysis is revised in response to these comments, it should be re-circulated in draft form.

RESPONSE: The comments in this letter focus on: (1) using a level of service methodology instead of a forecast model for far term traffic impacts, which the City considers inaccurate and inappropriate; (2) using the MTC model to evaluate impacts outside the City's Sphere of Influence, which would be so vague and speculative as to be meaningless; and (3) updating existing traffic conditions, which would not change the type, scope or the significance of potential impacts from the project.

CEQA requires recirculation of an EIR if new information is added to the EIR after the public review period that "deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect...that the project's proponents have declined to implement." [§15088.5(a)] Nothing in this letter identifies the potential for a new or additional significant effect, or the potential for a mitigation measure for reducing a significant effect. There does not appear to be a reason for recirculation.

14. RESPONSES TO COMMENTS RECEIVED FROM JOHN D. LANDIS, DATED JUNE 16, 1998

COMMENT: I am writing in response to your request that I review the Draft Environmental Impact Report for the *Greenline/Urban Growth Boundary*, prepared by the City of San Jose and Santa Clara County (SCH#97122060). I am undertaking this review free of charge. Please note that none of my comments should be taken as indicating disapproval of urban growth boundaries. Quite the opposite: done right, they can be enormously effective. Also please note that I think the City of San Jose has an outstanding track-record of land use and redevelopment planning; I regard the weaknesses of the reviewed document as aberrations, and not typical of San Jose's largely sound approach to land use planning and growth policy.

I have organized my comments into two sections; the first, dealing with the adequacy of the EIR document; and the second, dealing with the greenline policy as presented in the EIR document.

A. Draft EIR (DEIR).

The principle problem with the DEIR is that its discussion of the land supply situation in the San Jose sphere-of-influence and Santa Clara County is too sketchy; and that the potential impacts of the proposed greenline policy on area land and housing markets (p. 21-32) are inadequately documented:

1. On page 21, the DEIR asserts that there is sufficient vacant land within the San Jose Urban Services Area (USA) to accommodate projected residential development through the year 2020. In particular, the DEIR draws on a previously-conducted vacant land inventory to

indicate that 4,253 acres of undeveloped, residentially-zoned land is currently available in the USA. This supply, the DEIR asserts, is sufficient to accommodate an additional 52,900 projected housing units.

RESPONSE: This comment is a misstatement of the information in the DEIR. Page 21 of the DEIR identifies 3,413 acres of vacant land designated for single family densities by the existing General Plan, and 940 acres of vacant land designated for multi-family densities, for a total of 4,353 acres (the number 4,253 does not appear on page 21). The DEIR goes on to say that the vacant land inventory represented by these numbers does

“..not include underutilized land, which is considered developed. Nor does it include the South Almaden or Coyote Valley Urban Reserves, which are outside the USA. Land that is generally available for new development would include the itemized vacant land, underutilized land, and land that may contain land uses that are considered no longer economically viable. In addition to development that coincides with the exact land use categories in the City’s General Plan, under certain circumstances the General Plan allows *Mixed Use* developments (which falls within the ‘Other’ category above), and higher density residential development on land that is not designated for residential uses (‘Discretionary Alternative Use Policies’).”

Elsewhere in the DEIR (on page 26), it is stated that the City estimates that 6,600 dwelling units could be developed on vacant or *underutilized* land within the intensification corridors. On page 30, it is stated that the General Plan assumes that up to 2,000 dwelling units could be accommodated in the South Almaden Valley Urban Reserve, which is part of the assumed 52,900 dwelling units.

The DEIR does not anywhere state or assume that 52,900 dwelling units would be built on 4,353 acres (or 4,253).

COMMENT: Implicit in this assertion is the assumption that projected new residential development will occur at an average gross density of 12.5 units per acre or greater. This is an extremely high density, and one which I suspect, is *significantly above* prevailing marketbased densities. While such densities may be physically feasible, they are probably not realistic. If they are not--that is, if the market preferences for housing are well below 12.5 units per acre--then the designated supply of land within the USA will be insufficient to accommodate projected development. [Most of the undeveloped areas inside the urban services boundary are zoned for single-family homes. Single-family densities are typically in the range of 6-9 units per gross acre.]

RESPONSE: Since, as explained in response to the previous comment, the stated assumption (that 52,900 dwelling units must be accommodated on 4,353 acres) is erroneous, and is not the basis of the DEIR’s discussion, neither the DEIR nor the General Plan contend that residential density must be built at 12.5 units per acre or greater.

It is apparent that the commenter is unfamiliar with recent development patterns in San Jose. While the General Plan does not assume that overall densities will be 12.5 dus/acre, it is relevant in this context to note that the average density for residential

Planned Development zonings in San Jose for the past five years has been approximately 22.8 dus/acre (most new residential development in San Jose occurs under PD zoning).

The 52,900 dwelling units is based partly on an average density, not the maximum. It also reflects the recent experience of development in San Jose in the land use categories of the existing General Plan; the City's General Plan methodology is compared constantly to development trends.

COMMENT: If such is the case, the effect of the proposed policy will be (at least) two-fold. It will, first, exert further upward pressure on home prices in Santa Clara County-already the highest in the nation-and reduce housing affordability accordingly. [Half of all Santa Clara County renters paid more than 30% of their income for rent in 1996, according to the American Housing Survey (U.S. Census Bureau). Thirty percent is widely regarded as the national benchmark for housing need.] Second; and, (ii) it will encourage homebuilders and developers to "leapfrog" further out to other parts of the Bay Area, and San Benito [The City of Hollister in San Benito County recently enacted a residential building permit cap precisely to protect itself from spillover growth from Santa Clara County.] and Santa Cruz Counties in search of residentially developable land. *Note that this is the very outcome the greenline policy is designed to avoid.* Much of the new home development which is currently occurring in central and eastern Alameda and Contra Counties is for Silicon Valley employees unable to find housing in the county in which they work.

RESPONSE: As stated previously, the assumptions upon which these conclusions were based are erroneous, both as to the overall density assumptions in the General Plan and as to the density of development which is being built in San Jose.

The issue of "leapfrog" development, and the impact of the UGB on the exportation of housing demand to outlying counties are discussed in Section IV. Secondary Impacts of the DEIR, beginning on page 155. On page 157, it is stated that development in other jurisdictions [such as Hollister] are subject to local control, including their applicable local plans and policies. The adoption of growth controls to prevent "spillover" growth is an appropriate local action to ensure that local control of growth is maintained. San Jose's General Plan does not assume that development in other jurisdictions is necessary or appropriate to support planned growth.

It is also inaccurate to state that the greenline policy is "designed to avoid" "spillover" growth in other counties. San Jose's land use policies are not developed based on other jurisdictions needs or policies.

COMMENT: The issue of density is important in other ways as well. To the extent that development occurs at lower than anticipated densities, or is more far-flung, it will tend to boost trip generation rates and single-occupant vehicle use, thereby adding, potentially, to street and perhaps freeway congestion levels.

RESPONSE: The City of San Jose agrees that lower density residential development, particularly single family development on the edge of the urban envelope, would generate significantly more traffic than higher density residential development, and would

heavily impact both local streets and freeways. For this reason and others, the City's General Plan uses residential density *ranges*, and proposed development cannot be below the bottom of the range in order to be approved. It is also an important consideration in adopting a UGB that limits the potential for lower density residential development at far-flung locations beyond the edge of the City.

COMMENT: In its current form, the DEIR does not present enough information regarding current, market, and proposed densities, and their relationships to land supply, to evaluate these issues and impacts. It should.

RESPONSE: A General Plan is a long term planning document that must, of necessity, make certain assumptions about future development trends, changing markets, and community expectations. Because of the dynamics of land use planning, the General Plan process includes provision for updates and reviews. As described on pages 30 and 156 of the DEIR, San Jose's General Plan has a number of mechanisms for responding to changing markets and other conditions.

The DEIR and the General Plan reflect current and past experience in San Jose and Santa Clara County, and a number of assumptions about the future. The "proposed densities" are very explicit, and the discussion of the supply of land is as current as possible. The General Plans of the City and the County are *not* tied to current market conditions, because it would be poor planning practice to plan only for the present. They do reflect what the City and County believe are reasonable assumptions about both the future, and the goals and policies of the local communities.

COMMENT: 2. Even if there are adequate land supplies within the USA, it is not clear from the DEIR whether that land is in the appropriate form. The home and apartment builders who dominate the San Jose market are mostly interested in flat, regularly-sized, and large (3-5 acres or more) parcels. To the extent that the supply of available sites does not meet these criteria, or, to the extent that the owners of these sites are unwilling to sell, the supply of land appropriate for residential development may be far less than the physical supply. Again, the DEIR does not address these issues.

RESPONSE: The General Plan does not plan only for dominant developers who seek ideal sites. The City's goals and policies, as reflected in its General Plan, encourages the utilization of underdeveloped parcels, and the redevelopment of properties that contain aging or deteriorating structures. These are legitimate planning goals that reflect a need to maintain an economically vital community that is a good place to live for all of its citizens. It is assumed that developers will adjust to the supply of available land, or new developers will enter the market.

As stated previously, the General Plans are long term planning documents, that reflect changing conditions and expectations. Properties become available for development over time that were not available initially, reflecting changes in neighborhoods, in the economy, and the market, as well as the personal circumstances of the property owners.

COMMENT: 3 . Lastly, property markets require adequate reserves to work properly. If there are not adequate reserves, landowners can demand monopoly prices for their properties, dramatically inflating the cost and price of development. The reserve levels required to make land markets work smoothly varies widely by area, but is generally thought to be in the 30%-50% range [Because it is not likely to be available for development in the foreseeable future, the Coyote Valley Reserve area can not be considered reserve to the current market.] The fact that the San Jose USA does not include adequate longterm reserves has already been identified by the market, and is the main reason why land prices in Santa Clara County are already so high.

In summary, in order for the DEIR to properly conclude that there is adequate land supply within the San Jose USA (and proposed greenline boundary) to mitigate against substantial housing price increases and "leapfrog" spillovers, it must present more careful and detailed analysis of the current supply and demand for residential sites in the USA and surrounding areas.

RESPONSE: This comment appears to be stating that the City must maintain a "reserve" of vacant residential land equivalent to 30% to 50% of the total vacant land considered necessary to meet future needs. To make such an assumption for long term planning purposes would be to encourage growth and sprawl of extraordinary proportions.

The DEIR does not make any statements or reach any conclusions about housing price increases, nor is such a conclusion relevant to an environmental review document. The discussion of secondary impacts does address the likelihood that development of housing outside Santa Clara County will continue as it has in the past, whether or not San Jose adopts a UGB.

COMMENT: B. Successful Urban Growth Boundaries

Urban growth boundaries (UGBs) such as San Jose's proposed greenline are not new. They have been in existence in Oregon since the mid- 1970s, most notably in the Portland metropolitan area. Much has been written regarding Portland's generally successful experiences--enough to begin to identify what is necessary for UGBs to work as intended:

1 . First and foremost, UGBs are best designed and administered on a regional or subregional level--precisely so that displaced development doesn't leapfrog outward to the nearest community that lacks a UGB. Portland's UGB covers nearly 20 neighboring jurisdictions. San Jose's proposed UGB was designed and will be administered by one jurisdiction, without regard to its regional impacts.

RESPONSE: This is not an accurate statement. The DEIR addresses the adoption of the UGB by San Jose and the adoption of associated policies to support the UGB by Santa Clara County. In addition, the adjacent community of Morgan Hill has adopted a UGB, and the adjacent City of Milpitas has placed the issue on an upcoming ballot.

COMMENT: 2. As noted above, UGBs should be designated so as to include sufficient supplies of developable land at market-based densities, including reserves. Portland's UGB was drawn in 1973 to include 20 years of developable land (at market densities) plus 33% reserves. The DEIR suggests this is not the case for San Jose.

RESPONSE: This comment reflects an opinion as to how a UGB “should” be drawn. The Portland model and the letter writer’s opinion as to how the UGB should be designed are acknowledged, but do not relate to the environmental impacts or the DEIR.

COMMENT: 3. In order that they not become political footballs, UGBs should be automatically reviewed on a fixed schedule--say 5, 10 or 15 years (Portland's UGB was set up to be reviewed on a 20 year schedule). San Jose's UGB proposal includes no such timetable. Conceivably, San Jose's UGB could never be reviewed.

RESPONSE: This comment does not speak to an environmental issue or the adequacy of the environmental review in the EIR. The opinion as to how a UGB should be designed is acknowledged.

COMMENT: 4. To avoid unforeseen impacts, and because growth is inherently unpredictable, UGBs should include "hard triggers," such that when land and/or housing prices rise to a pre-determined point, or when developable land supplies decline to some point, the UGB is automatically reviewed. Such is not the case in San Jose.

RESPONSE: This comment does not speak to an environmental issue or the adequacy of the environmental review in the EIR. The opinion as to how a UGB should be designed is acknowledged. A point of fact is that San Jose’s General Plan is regularly updated, as is its housing element. Changes in land absorption rates or in housing supply can trigger a comprehensive General Plan update whenever it is necessary.

COMMENT: 5. Lastly, UGBs are but one of many growth management approaches and should be integrated with other complementary land use planning tools. In San Jose's case, the long-term goal seems to be to promote more intense "infill" development; and the city is relying on the UGB to redirect growth from the fringe to existing urbanized areas. The evidence from Portland suggests this can work, but only when UGBs are coupled with strong programs to upgrade existing urban areas and make them more attractive in the market. San Jose has done this to some extent with its downtown redevelopment approach, and light-rail investments, but still lack's Portland's more comprehensive approach.

In short, if San Jose (supported by Santa Clara County) is to adopt a UGB, it should do so in the most effective way possible. Instead of looking at alternate UGB approaches (including some of the ideas noted above), the alternatives analysis section of the DEIR (p. 159-174) considers only marginally larger and smaller UGB areas. The sort of analysis that would lead to a more effective and fairer UGB is regrettably missing.

RESPONSE: This comment expresses an opinion as to whether or not the proposed UGB will redirect growth to infill. The opinion does not speak to an environmental concern.

With regard to the selection of alternatives, the letter writer does not identify what environmental impacts would be reduced by the selection of alternative approaches, which apparently include: (1) adding a 30% to 50% “reserve” of vacant developable land designated at single family densities on the edge of the City’s Urban Service Area; (2) creating an automatic “review” of the UGB at regular intervals; and (3) applying the UGB to neighboring jurisdictions.

The first option would clearly have some greater environmental impacts, including growth inducement and increased traffic, air pollution, loss of open space, etc. The second option does not appear to relate to environmental issues. The latter alternative would be meaningless since neither the City of San Jose nor Santa Clara County can adopt growth boundaries that are binding on other cities or counties.

**15. RESPONSE TO COMMENTS RECEIVED FROM GERRIT KNAPP ASSOCIATES,
DATED JUNE 29, 1998**

COMMENT: As you requested, I have reviewed the Draft Environmental Impact Report (DEIR) and other materials you sent me and formed an opinion regarding the adoption of an Urban Growth Boundary (UGB) for the City of San Jose, California. My opinion is based on nearly 20 years of experience as a professor of economics and urban planning--currently at the University of Illinois at Urbana-Champaign--and as a specialist in urban growth management in general and UGBs in markets; I have coauthored a book on the efficacy of Oregon's state wide land use program; I have served as a consultant to Metro, the regional planning agency for the Portland, Oregon, metropolitan area; and as a senior fellow at the American Planning Association, I have helped prepare model statutes on how to establish UGBs as an element of comprehensive land use plans. My opinion is also based on my reading of the following documents:

1. DEIR for the Greenline/Urban Growth Boundary, SCH#97122060.
2. Final Environmental Impact Report of the San Jose 2020 Comprehensive Plan, SCH# 94023031
3. San Jose General Plan 1996 Annual Review Report, Ref. # GP96-T-3
4. Memorandum from James R. Derryberry to the San Jose Mayor and City Council, Subject: Supplemental Report: Greenline/ Urban Growth Boundary Modification Ordinance and Fee, dated June 10, 1997, pgs 1-7, with attachments.
5. Memorandum from Gary J. Schoennauer, Director of Planning, to the San Jose Planning Commission, Subject: Major Issues in the 1996 Annual Review of the General Plan, dated October 4, 1996, with attachments.
6. Letters from Joseph E. Petrillo to the Mayor and City Council of San Jose, Regarding: Proposed Long Term Urban Growth Boundary, dated November 12, 1996.
7. Letter from Joseph E. Petrillo to the Mayor and City Council of San Jose, Regarding: Proposed Long Term Urban Growth Boundary, dated November 12, 1996.
8. Letter from Joseph E. Petrillo to the Planning Commission of San Jose, Regarding: Response to the Memorandum of October 4, 1996-Major Issues in the 1996 Annual Review of the General Plan and Response the General Plan Annual Review Report, Reference No. GP96-UGB & GP96-T-3 dated October 15, 1996.
9. Letter from Joseph E. Petrillo to the Planning Commission of San Jose, Regarding: Comments on the October 4th memorandum Re: Protest of a Negative Declaration for the General Plan Amendment (GP96-UGB), dated October 15, 1996.
10. Letter from Roberta Mundie to Joseph Mundie to Joseph E. Petrillo, dated November 12, 1996.
11. Letter from Roberta Mundie to Joseph E. Petrillo, dated October 15, 1996.
12. Letter from John Landis to Renee Robin and Ted Russell, dated June 16, 1998.

I organize my comments into three sections. First, I describe my understanding of previous steps and positions taken towards the adoption of a UGB for the City of San Jose. Next, I describe the

analyses that I believe should be conducted when adopting a UGB. Finally, I explain why, contrary to the statements in the DEIR, I believe the adoption of the San Jose UGB will have significant land use and environmental impacts.

The Adoption of a Urban Growth Boundary for San Jose, California

The salient issues, as I understand them, in the process through which the City of San Jose, and the County of Santa Clara, California, propose to adopt a UGB are as follows.

1. In 1994, the City of San Jose adopted its 2020 General Plan for the community which included two urban reserve areas and an Urban Service Area (USA) boundary (Reference#1, page 6).
2. The city proposed to adopt a UGB as an amendment to the general plan, which included all land within the USA and the two urban reserves (3, page 3).
3. The seven goals of the proposed UGB include the following: "Delineate the extent of future urban expansion and reinforce fundamental policies concerning the appropriate location of urban development in furtherance of both the city and county general plans" and "Provide greater long-term certainty regarding future land uses outside the Greenline/Urban Growth Boundary than was provided by the Urban Service Area boundary" (3, page 15).
4. The proposed UGB is intended to delineate the ultimate limit of San Jose's spatial growth and the requirements for its modification will be onerous (3, page 16).
5. The City of San Jose and Santa Clara County have determined that the UGB will have no land use or environmental impacts of any kind (1, pages vi-xiii).

RESPONSE: Numbered statement 4 represents the letter writer's opinion and number 5 is inaccurate. The City and County found that the UGB will have no significant *adverse* environmental impacts. To the extent that the UGB reinforces existing land use and development policies restricting development in the Greenbelt, the DEIR identifies potential beneficial impacts (on pages 36 and 46, for example).

COMMENT: Appropriate Steps Towards Adopting a UGB

Urban growth boundaries are powerful policy instruments with considerable potential to influence the rate, intensity, and character of urban growth. Urban growth boundaries that are drawn too tight will cause a shortage of urban land supplies, diminished housing afford ability, and cause development to leap-frog to exurban or other urban areas. Boundaries that are drawn too loose permit and in fact encourage urban sprawl. For these reasons, UGBs must be drawn very carefully, after extensive research on urban growth trends and capacity, and reexamined at regular intervals.

Although UGBs are relatively new policy instruments, standard procedures for their adoption have been established. Model procedures have recently been prepared by the American Planning Association. Although the City of San Jose may have followed similar procedures in adopting the 2020 General Plan, there is no evidence in the documentation I have reviewed-including the DEIR--that it did so for the proposed UGB. Appropriated procedures for adopting a UGB are as follows:

1. Obtain or develop a population and employment forecast for growth in the region and consider alternative ways in which expected growth can be met. Alternatives may include a contiguous, high-density urban area; a contiguous, low-density urban area; or a medium density urban area with discontinuous urban satellites. For each alternative, identify land use, transportation,

housing, urban service, and environmental implications. Seek public input on each alternative and choose the most desirable alternative through a collective decision making process.

2. Conduct a detailed capacity analysis of the areas already committed to urban growth. Based on the experience in Portland, Oregon, Seattle, Washington, and other metropolitan areas, such an analysis should include the following steps:
 - A. Calculate the total number of acres in the area already committed to urban development.
 - B. Subtract the acres of land already developed for urban use to identify gross vacant acres.
 - C. Subtract acres of platted, vacant single-family land.
 - D. Subtract acres that are environmentally constrained--due to steep slopes, flood plains, wetlands, and riparian buffers--to identify buildable lands.
 - E. Subtract land needed for future public facilities such as streets, schools, and parks to determine bet buildable acres.
 - F. Calculate residential and employment capacity based on existing zoning or comprehensive plan designations.
 - G. Adjust capacity for potential single family overbuild or underbuild.
 - H. Rezone buildable parcels (output of step D) to reflect the chosen form of future development.
 - I. Adjust the planned development capacities for residential and employment underbuild based on parcel-by-parcel analysis of development constraints due to parcel size, poor access, or partial development.
 - J. Adjust density assumptions to allow for lags in plan and zone change implementation.
 - K. Estimate redevelopment potential of previously developed land and adjust capacity calculation for residential units and employment.
 - L. Estimate infill housing and employment absorption and adjust capacity, based on the estimated rate of infill on the stock of oversized lots.
 - M. Adjust residential and employment capacity for existing lots and development rights on existing land (adds back what was subtracted in step C.)
3. Develop a comprehensive plan, with a UGB and corresponding zoning ordinance(s), that provides a sufficient supply of land to meet projected demand. Unless stipulated by state law, the proposed plan and UGB should include a carefully chosen horizon (typically 10 to 20 years), and date(s) at which the plan will be reevaluated and perhaps revised (typically in five to seven-years cycles).
4. Adopt and implement an urban growth monitoring system. Important variables that should be monitored include population, employment, and income growth; the supply and absorption rate of vacant land; land and housing prices; residential and employment densities; average commute times and vehicle miles traveled; park and open space development; water and sewer capacity and capacity absorption rates.

Besides assuring that the UGB will contain an adequate supply of land to meet the quantity and types of market demands, following the above procedures will assure that the UGB is fully integrated with other elements of the comprehensive plan, that the comprehensive plan and the UGB strike an appropriate balance between private property rights and collective interests in urban form, and that the plan and the UGB are developed through a collective and open decision making process.

RESPONSE: The letter writer's opinion on the appropriate process for creating a UGB is acknowledged. The letter writer admits that he has no information on how San Jose's UGB was developed. The UGB reinforces San Jose's existing urban policies, specifically the existing General Plan. The General Plan was developed pursuant to thorough research and a public participation process, which is inferentially referenced in the second paragraph of this comment. The adoption of the *San Jose 2020 General Plan* was the result of a very rigorous analytic process that also reflected the extensive experience the City has developed with the effects of growth management policies in San Jose over what was then the previous 18 years. While the urban limit line represented by the existing USA is different than it was in 1976, the differences reflect the fine tuning of its location based on specific information and location characteristics.

The DEIR refers to the *San Jose 2020 General Plan Housing Appendix* (page 24) which was incorporated by reference into the DEIR. The information in that study was updated by more current information, as appropriate, including the City's *Vacant Land Use Inventory* (page 21).

The City of San Jose believes that its UGB does strike the appropriate balance between the existing and clearly described environmental goals and policies of the City's adopted General Plan, its equally clear housing and economic goals and policies, the physical constraints of the lands surrounding the USA, and the interests of *all* of the property owners in and adjacent to San Jose's Sphere of Influence, including the existing neighborhoods of the City.

COMMENT: The Adoption of the San Jose UGB as Proposed Will Have Significant Land Use and Environmental Impacts.

Even if the City and County had followed the procedures described above, it is my opinion that the adoption of the UGB will have significant land use and thus environmental impacts. The bases for my opinion are as follows:

1. Although unstated in the DEIR, altering the pattern of urban development is the primary purpose of adopting a UGB. Explicit goals for the San Jose UGB include furtherance of the implementation of the general plan and the provision of greater certainty regarding future land uses. If these goals are achieved, then the UGB will alter the spatial and dynamic pattern of urban development. This is the point of my 1985 paper in *Land Economics* (61,1: 26-35). In this paper I provided theoretical and empirical support for the proposition that if a UGB increases certainty in the regulatory environment, then the UGB must affect current land values and land allocation. Land values inside the boundaries rise, land values outside the boundary fall, and urban development inside the boundary occurs sooner and at higher densities than would otherwise have occurred. Stated simply, if a UGB does not affect the spatial or dynamic pattern of urban development, then there is little reason to adopt a UGB!

RESPONSE: The letter writer's opinion as to the goals for adopting a UGB are not necessarily relevant to San Jose's and Santa Clara County's goals for adopting the UGB proposed for San Jose's Sphere of Influence. San Jose has had a well-established urban service area (USA) boundary for over 20 years. The purpose of adopting the

USA (in 1976) was explicitly to “alter the pattern of urban development”. The purpose of adopting the UGB at this time is to reinforce that pattern, which has been well established now for over 20 years.

COMMENT: 2. The adoption of the UGB changes the logic and thus the influence of the spatial elements of the plan. The city’s existing General Plan contains a USA boundary which identifies those areas that can be provided urban services without major additions to the stock of infrastructure. The plan also contains urban reserves which represent areas in which the USA is expected to extend. As such, the logic of the plan is based on an incremental approach to urban development where the urban development pattern is shaped by increases in infrastructure capacity. With the adoption of the UGB, the pattern in large by the policy-determined horizon and modifications procedures of the UGB. Such changes in the policy implications of the boundaries that now constitute the UGB will have influence on the expectations and land use decisions of land owners. Speculative interest in land inside the boundary, for example, will rise, while speculative interest in land outside the boundary will fall. Challenges to the adoption of the UGB by the homebuilders association and my specific land owners is *prima facie* evidence of such effects.

RESPONSE: The availability of infrastructure is not the only factor in the location of the USA boundary in San Jose, although that may be true elsewhere. As clearly stated in the City’s General Plan (Section II . Background for Planning in the General Plan; see especially subsections entitled “Natural Environment” and “Urban Setting”), the physical constraints of the land have been basic factors in the planning of urban limits for San Jose for many years. San Jose’s General Plan specifically does *not* identify an “incremental approach to urban development where the urban development pattern is shaped by increases in infrastructure capacity.” The General Plan adopted in 1976 identified a geographic location for urbanization and listed the criteria of what defined a physically appropriate urban envelope. The critical elements of that definition are still in effect, and are characterized by the physical constraints of the City’s geographic, geologic, hydrological, and biotic setting.

While the change in land value as a result of the adoption of urban boundaries is clearly true, the City and County cannot base their land use planning solely on “speculative interest in land”. The interests of the community as a whole, including the need of existing neighborhoods to receive essential services and to not have to share the extraordinary costs of maintaining infrastructure and services in fringe areas such as the hillsides and baylands, are higher priorities in the City’s General Plan.

COMMENT: 3. The period over which the UGB regulates land use in the San Jose region is different from the period covered by the original 2020 General Plan. Land use plans and regulations have at least two significant dimensions: Their substantive content and the period over which they are binding. Clearly, the adoption date of the UGB will be different from the adoption date of the existing General Plan. Further there is evidence to suggest that development conditions--such as population and employment growth rates--have changed since the adoption of the General Plan. What’s more, though the General Plan has a clearly specified horizon, there is considerable ambiguity concerning the horizon for the proposed UGB. On the first page of the 1996 Annual Review Report the UGB is described as delineating “the ultimate limit of urban development under the San Jose 2020 General Plan”--which suggests that the location of the UGB will be reexamined

and perhaps revised when the plan is revised. Later in the same document, however, the UGB is described as delineating land that should be remain “ permanently rural in character” (p.14), as the “ultimate limit to urban development in San Jose” (p.16), and as urbanization’s “logical, practical limit” (p. 13). If indeed the UGB is adopted with intent to establish a permanent limit to San Jose’s spatial growth, the UGB will without question have major current and future land use impacts in San Jose and its neighboring cities. In this case, the UGB must eventually cause land and housing price inflation, increase development densities, and drive development to peripheral areas within the San Jose region. For these reasons, no major city in the United States-to my knowledge-has ever adopted a permanent UGB.

I close by emphasizing that I cannot determine with certainty whether the UGB presently proposed for San Jose is too large or too small in the short term. Such a judgment can only be based on a detailed analysis of the kind outlined above, which is lacking in the DEIR. In my judgement , however, the adoption of San Jose’s UGB will cause current and future land use change with potentially significant environmental impacts, and that further analysis and public scrutiny of such impacts is clearly warranted.

RESPONSE: The comment that the two dimensions of a land use plan are “their substantive content and the period over which they are binding” implies that long term land use plans “expire”. Most long term land use planning is an ongoing, iterative process. The plans have horizon years which form the basis of qualitative analyses, but those horizons are never reached in any real sense. As time passes, good planning involves an ongoing monitoring and reassessment of the progress the community is making toward achieving the plans’s goals, and assessing how accurate the forecasts were.

Like many communities, San Jose and Santa Clara County evaluate their General Plans annually. As the data bases and forecasts become outdated, comprehensive updates are done to allow the community as a whole to evaluate the relevance of the plan and to reassess its goals and policies. The proposed UGB is permanent only to the extent that it is proposed to adopt the *procedures* by law. San Jose can begin a comprehensive update of its General Plan at any time for any reason the City Council deems appropriate. During the process, the City can re-evaluate the UGB. The quoted excerpts from the 1996 staff report reflects this context. The UGB reflects the limits on urbanization defined by the *San Jose 2020 General Plan* (and its predecessors), includes a permanent process for evaluating and modifying the UGB, and because it is based on physical limitations, is believed to include all of the land suitable for development in both the near and far term.

V. COPIES OF COMMENT LETTERS

Following this page are complete copies of all of the comment letters received on the Draft Environmental Impact Report for the Greenline/Urban Growth Boundary for the City of San Jose Sphere of Influence.



DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500



June 17, 1998

Ms. Julie Caporgno
City of San Jose
City Hall Annex, Room 400
801 North First Street
San Jose, California 95110-1795

Dear Ms. Caporgno:

Greenline/Urban Growth Boundary for the
City of San Jose, Santa Clara County
Draft Environmental Impact Report (DEIR)
SCH # 97122060

Department of Fish and Game personnel have reviewed the DEIR for the Greenline/Urban Growth Boundary for the City of San Jose and Santa Clara County project. The project identifies the limit for expansion of urban services and urban development within the City of San Jose. We have the following comments.

According to the DEIR, this project, implementation of a proposed Urban Growth Boundary (UGB), would not have deleterious impacts to sensitive biotic resources beyond those allowed under the existing San Jose and Santa Clara County General Plans. On Page 87 of the DEIR, it is stated that anticipated cumulative significant impacts to resources would be mitigated or avoided by adherence to the goals and policies of the City's General Plan. These goals and policies are, for the most part, presented as very general recommendations and have no apparent means of enforcement. Because it cannot be guaranteed that the policies will be upheld for specific projects, it cannot be assumed that they will provide adequate avoidance or mitigation for impacts.

While we do believe that impacts to biotic resources could be reduced by providing a line around urban growth in the San Jose area, several of the presented alternatives would apparently have fewer impacts than the preferred alternative. Alternatives A1 (No Development Scenario), B (Smaller Area Inside the Urban Growth Boundary), and E (Easements in the Greenbelt) would appear to be environmentally superior to the preferred alternative. Alternative B is presented with the Coyote Valley Urban Reserve, the non-urban hillside portions of the Silver Creek Planned

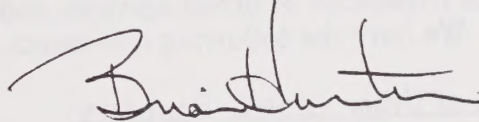
Conserving California's Wildlife Since 1870.

Ms. Julie Caporgno
June 17, 1998
Page Two

Residential Community, and the Edenvale Redevelopment Area excluded from the UGB. We suggest that this alternative be considered and that consideration be given to also excluding the South Almaden Valley Urban Reserve and more extensive areas of the Silver Creek and Edenvale sites, as well as any other sites currently outside of urban development.

We request that subsequent documents related to this project be submitted to this Department for our review. If you have any questions regarding these comments, please contact Ms. Martha Schauss, Associate Wildlife Biologist, at (408) 623-4989; or Mr. Carl Wilcox, Environmental Services Supervisor, at (707) 944-5525.

Sincerely,

A handwritten signature in dark ink, appearing to read "Brian Hunter". The signature is fluid and cursive, with a large, stylized "B" and "H".

Brian Hunter
Regional Manager
Region 3



RECEIVED
JUN 26 1993
CITY OF SAN JOSE
PLANNING DEPARTMENT

June 24, 1998

City of San Jose
Department of Planning and Building
801 North First Street
San Jose, CA 95110

Attention: Julie Caporgno

Subject: City File No. SCH#97122060;PP98-01-004 / Greenline/Urban Growth Boundary -
City of San Jose Sphere of Influence

Dear Ms. Caporgno:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR for an amendment to the San Jose 2020 General Plan which would establish a Greenline/Urban Growth Boundary (UGB) for San Jose. The UGB would identify the ultimate limit for expansion of urban services and expansion of urban development within the City. We have the following comments.

Transit Benefits of Urban Growth Boundary

VTA strongly supports the UGB. The City of San Jose's expected population increase of 20% within the next decade will lead to even higher levels of traffic congestion. As traffic worsens the community will look to VTA to provide effective transportation solutions. Plans to expand the light rail system have been developed. However, the success or failure of transit will be determined, in large part, by what happens around major transit stops. The UGB helps to stimulate the type of compact, higher density developments needed to make transit successful.

VTA has been involved in ongoing efforts to encourage the City to focus growth around transit. The UGB helps to ensure that a significant portion of future housing and employment is located along existing and planned transit lines. In addition, it influences the intensity of development to achieve a level which reflects the availability of moderate to high capacity transit.

Transit System Description

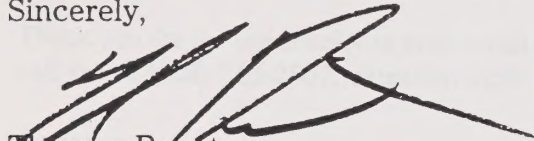
The following minor changes should be made to the Transit System Description on pages 95 and 96:

- On page 95, a sentence should be added to the second paragraph to mention plans to increase the bus fleet from 470 to 600 in 10 years.
- On page 96, the last sentence in the first paragraph (which starts on page 95) should be corrected to state that light rail will be extended to downtown Mountain View. This paragraph should also mention that there are plans to double the light rail system to 42 miles by the year 2004.

City of San Jose
June 24, 1998
Page 2 of 2

Thank you for the opportunity to review this project. If you have any questions, please call Roy Molseed of my staff at (408) 321-5784.

Sincerely,

A handwritten signature in black ink, appearing to read 'TR', is written over the printed name and title.

Thomas Rountree
Environmental Program Manager

TDR:RM:kh

cc: Timm Borden, San Jose Public Works Department

Santa Clara Valley Water District



5750 ALMADEN EXPRESSWAY
SAN JOSE, CA 95118-3686
TELEPHONE (408) 265-2600
FACSIMILE (408) 266-0271
WWW.SCVWD.DIST.CA.US

AN EQUAL OPPORTUNITY EMPLOYER

July 1, 1998

Ms. Julia Caporgno
City of San Jose
Department of Planning, Building,
and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110-1795

Dear Ms. Caporgno:

Subject: Greenline/Urban Growth Boundary—File No. PP 98-01-004—SCH No. 97122060

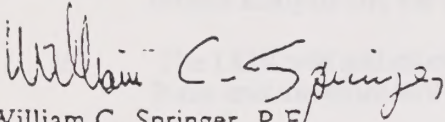
Santa Clara Valley Water District (District) staff have reviewed the Draft Environmental Impact Report (DEIR) for the subject project. The District understands that this project relates to policy rather than any specific development plan; therefore, we have few comments. We are also aware that these comments are being transmitted after the public review period.

1. In general, we find the goals of the Greenline/Urban Growth Boundary to be worthy and to serve our mutual constituents well. In particular, preservation of open space is a cost effective means of contributing to flood protection.
2. We note that numerous existing General Plan Policies cited within the sections Soil and Geologic Hazards (page 49), Earthquakes (page 50), Storm Drainage and Flood Control (page 57), Flooding Hazards (page 57), and Water Resources (pages 57 and 58), will result in benefits both to the District and to the City of San Jose (City). We appreciate policies, such as Natural Resources Policy 1 regarding the regulation of development within watershed areas, which demonstrate the attitude of cooperation of the City with the District.
3. It should be noted that the Santa Clara Valley Nonpoint Source Pollution Control Program is now known as the Santa Clara Valley Urban Runoff Pollution Prevention Program.
4. Although not specifically germane to the Urban Growth Boundary project, the following are clarifications to the status of the flood control projects that appear on page 52:
 - a. The Lower Silver Creek project is awaiting completion of the application for permits. Construction is several years in the future;
 - b. The Berryessa Creek project is in the planning phase with the U.S. Army Corps of Engineers (COE);

- c. The Guadalupe River project upstream of Interstate 280 is in the final stages of planning. We are now responding to comments on the Environmental Impact Report;
- d. The Upper Penitencia project is in the planning phase with the COE; and
- e. The Coyote Creek project between Montague and Interstate 280 has been shelved.

Thank you for the opportunity to review this document. If you have any questions or comments, please call me at (408) 265-2607, extension 2259.

Sincerely,



William C. Springer, P.E.
Associate Civil Engineer
Community Projects Review Unit

County of Santa Clara

Roads and Airports Department
Land Development and Permits

101 Skyport Drive
San Jose, California 95110



RECEIVED

JUN 09 1998

June 8, 1998

CITY OF SAN JOSE
PLANNING DEPARTMENT

Ms. Julie Caporgno
City of San Jose
Department of Planning
801 North First Street
San Jose, CA 95110-1795

**Subject: Draft Environmental Impact Report (DEIR)
Greenline/Urban Growth Boundary (UGB)
File No.: PP 98-01-004, SCH No. 97122060**

Dear Ms. Caporgno:

We have reviewed the DEIR submitted with your May 15, 1998 letter for the subject project. Our comments are as follows:

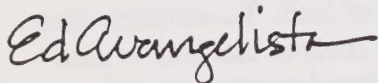
1. Figure 6A, "Existing PM Peak Hour Traffic Volumes", page 100: The traffic analysis may only require PM peak analysis; however, on most County expressways, the AM peak hour traffic volumes are as congested as in the PM. At some locations, the intersection delay is greater in the AM peak hour. Therefore, the traffic report should also analyze the impacts on the AM peak hour.
2. "Critical Corridors", page 103: Lawrence, San Tomas, and Montague Expressway should be included in the critical corridors and analyzed accordingly.
3. "Transportation Impact - Thresholds of Significance", page 105: The Congestion Management Agency (CMA) requirement, which requires developments that increase the delay at Congestion Management Program (CMP) intersections by 1.5% or by 4 seconds or more to prepare a traffic impact report including mitigation, should be included in the systemwide thresholds.
4. "General Plan Conditions", page 106; County expressways should be analyzed by using County and CMA standards which include trip generation and traffic projections as provided by the Center for Urban Analysis (CAU).
5. Table 7, "Peak-Hour Average Speeds in 2010", page 109; The San Jose Sphere speed for expressways is too high. Our studies show that existing expressway average speed during peak-hours ranges between 20 and 25 MPH.
6. Table 8, "Screenline Volume to Capacity Ratios in 2010", page 111; Only Montague Expressway is listed in this table. Other affected expressways should be listed as well.

June 8, 1998
Ms. Julie Caporgno
page 2 of 2

7. Page 112, first paragraph, "The implementation of the existing City and County...."; This paragraph indicates the adoption of the UGB will not cause significant impacts to the transportation system any more than the implementation of the existing City and County General Plans. We disagree with this conclusion for the following reasons:
 - a. The traffic report does not include any traffic impact analysis to support this conclusion, i.e., intersection and segment LOS calculations. In order to review the traffic impacts on County expressways, the traffic report should include a traffic impact analysis and the proposed mitigation measures.
 - b. The UGB will add more traffic above and beyond the City and County General Plans and therefore will increase traffic delay.
8. Appendix D, "Intersections", page 27; Montague Expressway should be included in the list of expressways which have multiple intersections at LOS D or below.
9. Appendix D, "Existing Intersection Level of Service" map, page 28; Only two intersections are shown on Montague Expressway with LOS E or F and one intersection with LOS D. All CMP intersections on Montague have LOS D or below, with most intersections having LOS E or F. This is also true on most expressway intersections that are not shown on this map.
10. Appendix D, "Conclusion", page 40; We disagree with this conclusion - see item 7 above.

Thank you for the opportunity to review and comment on this project. If you have any questions, please call me at 573-2461.

Sincerely,



Ed Evangelista
Project Engineer

cc: D. Collen
Central File

S. Kandah
Project File

epe722 Ref:0320



GUADALUPE - COYOTE RESOURCE CONSERVATION DISTRICT

888 NORTH FIRST STREET RM. 204, SAN JOSE, CA 95112
OFFICE (408) 288-5888 FAX (408) 993-8728

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JUN 22 1998

PLANNING DEPARTMENT

June 15, 1998

Julie Caporgno
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110-1795

Dear Ms. Caporgno;

Thank you for the opportunity to comment on the DEIR Greenline/Urban Growth Boundary, May 1998. Although the DEIR mentioned the fishery resources that exist in county streams, the information on water temperature was incorrect. The Guadalupe River and Coyote Creek and their tributaries are cold water streams. You have incorrectly stated that warm water is the most common state in these streams. Steelhead and chinook salmon spawn in Coyote Creek and the Guadalupe River. Los Gatos Creek can support chinook and steelhead. Steelhead are a Federally protected species.

The DEIR Greenline/Urban Growth Boundary includes vast amounts of land. To accommodate this large scope, we feel it is necessary to include methods of scientific analysis that will be used to determine cumulative and other impacts to listed species. Do you intend to support your conclusions with scientific data concerning listed species in the EIR? This is especially important in areas that are undeveloped, such as the Coyote Valley Urban Reserve and the South Almaden Urban Reserve. There are serpentine soil species along with other protected species in these areas. There are wetlands in the Coyote Valley Urban Reserve. One of the goals (City of San Jose, Policy R-LU c.) of the city is to preserve surrounding hillside lands, viewshed areas, and natural resources in non-urban and open space uses. Natural resources cannot be preserved if habitat is eliminated. We would like to see a scientific study of biological resources in both of these Urban Reserves. Limiting factors are especially important for protected species. Will you be discussing limiting factors for listed species in your EIR?

Corridors and "stepping stone" habitats for various species are necessary for their survival. Please discuss these habitats in the EIR. Water quality and temperatures are important for fish survival. Please discuss in detail development impacts to fish habitat, serpentine soil species, oak woodlands and riparian corridors.

2.

Thank you for your consideration of these comments.

Sincerely,

Larry Johnson

Larry Johnson, President
Board of Directors



June 18, 1998

Mr. Jim Derryberry
Director of Planning
801 North First Street, Room 400
San Jose, CA 95110

Re: San Jose Greenline DEIR Comments

Dear Mr. Derryberry:

Greenbelt Alliance was pleased to review the Draft EIR on the San Jose Greenline/Urban Growth Boundary. It was a very well written document which correctly portrayed the lack of any significant impacts or impacts which could be mitigated. We have the following two comments:

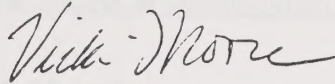
1. We concur with the secondary impact analysis regarding infill development within the USA that the Greenline will only potentially have an impact on the timing when infill development occurs, but otherwise simply serves to carry out San Jose's vision for its growth and development as described in the current San Jose General Plan. San Jose's new growth will be predominately infill development and that is not only appropriate from an environmental perspective, it is also the most fiscally conservative approach to growth which will assure more cost effective city services. Infill development is essential to achieve more viable and balanced communities and can be made compatible with existing neighborhoods.
2. We agree with the determination of the environmentally superior alternative which would exclude the Coyote Valley Urban Reserve and utilizing open space easements to "lock in" the edge of the Greenline. In regards to the Coyote Valley Urban Reserve, we would add that the South Almaden Urban Reserve should have been studied as part of that review. We do not understand why it has been assumed that the South Almaden Urban Reserve would develop before the year 2020 as it has similar development "trigger" mechanisms as the Coyote Valley Urban Reserve. Although we fully support the Greenline as originally adopted by the City Council, we believe that deleting the urban reserves from consideration for development would be a better alternative for San Jose not only environmentally, but also because of the likely very expensive costs to extend and provide urban services.

continued

In regards to the open space easement option, we hope that the Santa Clara County Open Space Authority will be able to begin acquiring easements and full fee title on property at the edge of the Greenline very soon. We believe that they will be free of legal challenges by December, 1998.

Thank you for the opportunity to comment on this well-written EIR.

Sincerely,



Vicki Moore
Associate Policy Director

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JUN 19 1997

CITY OF SAN JOSE
PLANNING DEPARTMENT

HOME
BUILDERS
ASSOCIATION



OF NORTHERN CALIFORNIA

June 29, 1998

Via Facsimile and Regular Mail
408-277-3250

Ms. Julie Caporgno
Department of Planning, Building
and Code Enforcement
City of San Jose
801 North First Street, Room 400
San Jose, CA 95110-1795

Re: Comments on Draft EIR for the UGB

Dear Ms. Caporgno:

The Home Builders Association of Northern California respectfully submits the following comments for inclusion in the administrative record on the Draft EIR (DEIR):

1. The DEIR Improperly Uses the Existing General Plan as a Baseline.

In HBA's March 19, 1998 letter commenting on the scoping process for the DEIR, HBA raised the point that CEQA prohibits a lead agency from assessing a project's potential environmental impacts solely against the impacts expected from projects contemplated in an existing general plan. The DEIR, however, does precisely that: the DEIR assesses potential impacts associated with the UGB against the impacts expected from build out of the City's existing general plan. There is little, if any, analysis of the UGB's potential impacts against the existing physical environment. At the end of the day, the DEIR is simply a repackaging of the EIR prepared four years ago for the City's general plan update. This is precisely the type of analysis prohibited by CEQA. See *Environmental Planning and Information Council etc. v. County of El Dorado* (1982) 131 Cal.App.3d 350, 356-358; *City of Carmel-by-the-Sea v. Board of Supervisors of Monterey County* (1986) 183 Cal.App.3d 229, 246-247.

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Tel (510) 820-7626

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Julie Caporgno
June 29, 1998
Page Two

2. The DEIR Improperly Assumes That the Timing of Development Cannot Have Environmental Impacts.

The DEIR acknowledges that the UGB may affect the timing of development activity that is expected to occur within the UGB:

With incrementally less likelihood for growth to occur outside of the USA with the UGB in place, the timeframe for planned infill development might be accelerated, as compared to the timeframe for the infill development without the UGB in place (DEIR at 154).

However, the DEIR dismisses out-of-hand the possibility that acceleration of what could be a substantial amount of development may have significant environmental impacts: "In any case, issues of timing would not effect the environmental impacts of such development, which is the relevant question under CEQA." (DEIR at 154).

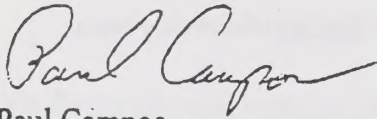
- The DEIR's conclusion that the UGB will not have any significant environmental impacts is based in large part on its unsupported assumption that the timing of development is never relevant for CEQA purposes. In fact, there is every reason to believe that timing will have significant impacts. Starting with an extreme example, if it were the case that every one of the 52,900 housing units allegedly accommodated by the existing general plan were constructed in 1 year rather than over 20, there is no doubt that there would be significant environmental impacts resulting from such a massive amount of development in such a short time. In such a case, it is doubtful that measures intended to mitigate impacts on traffic, air quality, noise, and other areas would be able to be implemented soon enough--and even if they were, they would probably be overwhelmed in the near term, thereby leaving significant impacts unmitigated for what could be a substantial period of time.

The above example illustrates that acceleration of development can have significant environmental impacts. For this reason, the DEIR is fundamentally flawed because many of the findings of no significant impact rest on the assumption that acceleration of development can never have significant environmental effects. Because the DEIR dismisses even the possibility that acceleration of development may lead to significant impacts, it provides no analysis of the issue and is therefore legally deficient.

Julie Caporgno
June 29, 1998
Page Two

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script, reading "Paul Campos". The signature is fluid and extends to the right.

Paul Campos
General Counsel

SIERRA CLUB • LOMA PRIETA CHAPTER
San Mateo • Santa Clara • San Benito Counties

June 29, 1998

Julia Caporgno
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, CA 95110-1795

RE: Greenline/Urban Growth Boundary, DEIR, File # PP98-01-004, SCH # 97122060

Dear Ms. Caporgno:

On behalf of the Loma Prieta Chapter of the Sierra Club, I am submitting the following comments on the DEIR for the Greenline/Urban Growth Boundary. We found the document well written and the potential environmental impacts of all alternatives adequately analyzed. We wish the following to be noted:

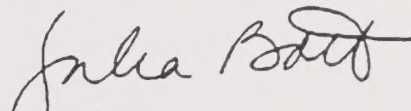
Special Status Species: The DEIR correctly determines that the adoption of the UGB would not cause impacts to special status species. However, adopting an alternative which provides for a re-configured boundary which includes lands in the eastern hills may result in future impacts to the special status species found on serpentine soils. While it is true that the adoption of a re-configured boundary itself would not result in an impact, the document correctly notes the species which could be impacted by the future development that would be allowed under this alternative.

Air Quality: The DEIR correctly states that air quality impacts in the region will continue to be significant regardless of the adoption of the UGB. While we concur, it should be noted that concentrating development within the UGB and near transit will facilitate the use of alternatives to the car, which will have some beneficial impact on air quality.

Traffic: The DEIR correctly states that traffic impacts in the region will continue to be significant regardless of the adoption of the UGB. While we concur, it should be noted that concentrating development within the UGB will facilitate the use of transit, increase ridership numbers, increase recovery percentage at the fare box and have some beneficial impact on traffic impacts.

For the above reasons, we concur that the UGB, as proposed, is the environmentally superior alternative. We urge its adoption.

Sincerely,



Julia Bott
Chapter Director



3921 East Bayshore Road Suite 204
Palo Alto, CA 94303
415-390-8411
FAX 415-390-8407



**Pacific Gas and
Electric Company**

RECEIVED
JUL 01 1999

CITY OF SAN JOSE
PLANNING DEPARTMENT

245 Market Street
San Francisco, CA 94105

Mailing Address
Mail Code N10A
PO Box 770000
San Francisco, CA 94177

415.973.7000

June 29, 1998

Ms. Julie Caporgno, Senior Planner
Department of Planning, Building and Code Enforcement
City of San Jose
801 North First Street, Room 400
San Jose, CA 95110-1795

Dear Ms. Caporgno:

File No. PP 98-01-004

Thank you for providing Pacific Gas and Electric Company (PG&E) opportunity to comment on the Draft EIR (DEIR) for the Greenline/Urban Growth Boundary. Our comments relate to the importance of early and close coordination between the City of San Jose, County of Santa Clara, and PG&E.

The DEIR correctly states: "Future population growth associated with implementation of the San Jose and Santa Clara County General Plans will result in significant increases in energy demand." However, PG&E cannot easily accommodate this increasing demand for electricity without substantial lead time, planning, and capital expenditures. Developing new infrastructure (principally power lines and substations) can take several years. Planning, engineering, environmental review, land rights acquisition, and public involvement require considerable time and effort.

PG&E has two 230 kilovolt (kV) substations and 19 115 kV substations in San Jose, and serves 11 customer-owned 115 kV substations. PG&E owns several hundred miles of transmission lines in San Jose that serve 1825 Megawatt (MW) of load in the San Jose area. In the next three years, San Jose and Santa Clara load is estimated to grow at a rate of 120 MW/year, and after that at a rate of 54 MW/year. Below is a representative list of projects required in the next few years to meet this electricity demand:

Approved Projects

North San Jose Capacity Project (substation and transmission lines), 1999
Northeast San Jose Transmission Relief (substation and transmission lines), 2000
FMC Substation Loop (convert substation from a tapped to a looped station), 2000

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Projects in Pre-Approval Planning Stage

Plumeria Substation

Piercy Substation

Coyote Valley Substation

Syntex Substation

Hostetter Substation

McKean Road Substation

Each project requires extensive planning and coordination. Infill and demand increases will require more substation sites along with corresponding power lines. As stated in the DEIR, with or without the UGB there will be cumulatively significant increases in the demand for utility services, including the need for new infrastructure. We have in the past, and intend to continue to involve the City and County early in our project planning, and we request that you involve us when issues arise that may affect power requirements.

Our mandate is to provide safe and reliable power at competitive costs. The DEIR correctly assumes that PG&E must expand its facilities to meet demand. We can only do so, and still meet our mandate, by working early and closely with the City of San Jose and County of Santa Clara. We look forward to a continuing successful and beneficial relationship with the City of San Jose and the County of Santa Clara. Please contact us and we can talk about ways to best integrate our planning requirements.

Sincerely,

Forrest Sullivan (DRE)

Forrest Sullivan

Director, Land Projects

SSS:cm

FAX 277-3250

150 Altura Vista
Los Gatos, CA 95032
June 28, 1998

Ms. Julie Caporgno
c/o Department of Planning
801 North First Street, Room 400
San Jose, CA

RE: Draft - Environmental Impact Report for a **San Jose 2020 General Plan Text Amendment.**

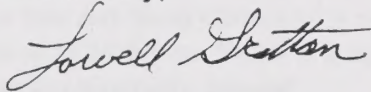
Dear Ms. Caporgno,

The Draft Environmental Impact Report does not speak to the following issues:

1. The Greenline limit directs development inside the Greenline and encourages the development and loss of Class A Farm Land and prevents development of adjacent range land not suitable for row crops.
2. The Greenline limit directs development inside the Greenline and encourages the development of land within the 100-year flood plan and prevents development of adjacent land above the flood plain.
3. The Greenline limit directs development inside the Greenline and encourages the development of land, which in some cases is ten times the cost of land adjacent outside of the Greenline, effectively preventing affordable housing. Housing, where we live, must be considered part of the environment.

I would respectfully request that in reviewing the final Environmental Report, that the above concepts be considered.

Most sincerely,



Lowell Grattan
(408) 379-2350
FAX 408.379.2355

RECEIVED
JUN 30 1998

CITY OF SAN JOSE
PLANNING DEPARTMENT

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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June 29, 1998

BY MESSENGER

Ms. Julie Caporgno
City of San Jose
Department of Planning
Building and Code Enforcement
801 North First Street, Room 400
San Jose, California 95110-1795

RECEIVED
JUN 29 1998

CITY OF SAN JOSE
PLANNING DEPARTMENT

Re: Draft Environmental Impact Report for Proposed
Greenline/Urban Growth Boundary (SCH No. 97122060)

Dear Ms. Caporgno:

This firm represents the owners of Young Ranch and the Richmond Ranch, which include tracts of undeveloped land that will be affected by the Greenline/Urban Growth Boundary (the "UGB") proposed by the City of San Jose (the "City") and the County of Santa Clara (the "County"). The purpose of this letter is to provide you with our comments on the Draft Environmental Impact Report (the "DEIR") dated May 15, 1998 for the proposed UGB (the "Project").

The acknowledged goal of the Project is to eliminate the discretion of local government for the foreseeable future to permit the development of housing in the approximately 60,000 acres of land that lie within the City's sphere of influence immediately beyond the present urban boundary of San Jose (the "Greenbelt"). Responsible experts believe that the proposed line may have been drawn too tightly around the City and that the result will be to redirect future development that would otherwise have occurred in the Greenbelt in unplanned and undesirable ways. Specifically, experts who have reviewed the proposed UGB opine that there is a

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significant possibility that the line is drawn so tightly that it may actually exacerbate urban sprawl by accelerating and deepening the present trend of fulfilling housing demand through "leap-frog" development in southern Santa Clara County, San Benito County and the Central Valley or, alternatively, that it will result in urban infill within the proposed UGB at locations and of a magnitude that has previously been found to have unacceptable impacts. As the experts whose opinions we include herewith attest, there are accepted methods and procedures for quantifying and analyzing these consequences of the Project and we urge that they be employed to permit an informed and meaningful consideration of the proposal.

Unfortunately, the DEIR studiously avoids any effort to address these concerns. Instead of forthrightly examining the intended consequence of the Project, which is to halt the path of development at the present edge of the City, the authors of the DEIR pretend that the Project merely "preserves the status quo." Indulging in this fiction, the DEIR first concludes that the proposed Project has no impacts whatsoever and then proceeds to present something resembling an analysis of the status quo by rehashing the environmental analysis done several years ago on the 2020 General Plan (the "2020 General Plan").

The DEIR barely mentions the actual environmental impacts of the Project, all of which were raised during the administrative proceeding two years ago. The grudging reference to these significant impacts is relegated to just five pages towards the back of the DEIR in the Secondary Impacts section. This section is a missed opportunity to provide decision-makers and members of the public with an informed and intelligent analysis of the possible consequences of the Project. Is the proposed UGB too tightly drawn? Will it have the unintended consequence of promoting undesirable levels of urban infill and worsening far-flung urban sprawl from San Jose into the portions of Santa Clara County that lie beyond the Greenbelt, to San Benito County and to the Central Valley? How will this impact the environment? Instead of forthrightly asking these obvious and pertinent questions and using well-established techniques for identifying, quantifying and analyzing impacts, the authors of the DEIR brush these issues aside by characterizing each of them as too "speculative."

It is disingenuous for the City to assert that a project of this importance, which officials have described as the most significant land use measure of the decade, does nothing and has, at most, impacts which are purely speculative. Decision makers

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and the public deserve, and CEQA requires, meaningful environmental analysis of the Project. The purpose of our comments, which are set forth in greater detail in the remainder of this letter and in the accompanying reports and exhibits, is to encourage the City to rethink its approach and to provide a meaningful analysis of the Project, including consideration of realistic alternatives that address some of the many mechanisms that other communities have included in their urban growth boundaries to mitigate the harsh impacts that a tightly drawn boundary can generate

Our letter references and incorporates, and is supplemented by, expert testimony from John Landis, an Associate Professor at the University of California, Berkeley, and Gerrit Knaap, an Associate Professor of Land Use and Urban Planning at the University of Illinois, both recognized authorities on the impacts associated with UGBs, Mundie & Associates ("Mundie"), a respected land use and economic consulting firm with substantial experience in the preparation of environmental impact reports, and Daniel Smith, Jr., the principal of Smith Engineering & Management ("Smith"), a respected transportation consulting firm. The letters and reports prepared by Professor Landis, Professor Knaap, Mundie and Smith are attached hereto as Exhibits 1, 2, 3 and 4, respectively, and are respectfully defined herein as the "Landis Report", the "Knaap Report", the "Mundie Report" and the "Smith Report".

I.

SUMMARY

Our comments on the DEIR may be summarized as follows:

1. The DEIR adopts the same flawed approach that the court disapproved of last year in the lawsuit over the Negative Declaration. The greenline strategy in the present 2020 General Plan, which the City has never given environmental review, is a general policy statement that does not create an urban growth boundary or impose any limitations on its modification. The current 2020 General Plan leaves the City with full discretion to expand its Urban Service Area. The Project, by contrast, contains specific, mandatory provisions which remove local governmental discretion for the foreseeable future. By ignoring this reality, the DEIR begins on the same false premise that underlay the previously discredited Initial Study and Negative Declaration.

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2. The DEIR's purported analysis of the Project simply rehashes the analysis done several years ago for the 2020 General Plan and does not analyze the impact of the Project's prohibitions of further urban development within the Greenbelt.

3. The methodology employed in the DEIR is inadequate. The DEIR targets only selected areas for analysis, ignoring others where impacts are likely to occur; it adopts an inappropriately short time horizon; and it sets impermissibly high thresholds for significance.

4. The Secondary Impacts Section of the DEIR avoids any analysis of the secondary impacts of the Project by improperly characterizing them as "speculative."

5. The alternatives analysis in the DEIR is inadequate. Among other things the DEIR fails to analyze a reasonable range of alternatives to the Project, the DEIR's formulation and analysis of the "no project" alternative is inadequate, and the DEIR's analysis of the three UGB alternatives is inadequate.

6. The DEIR's analysis of growth inducing impacts is facially inadequate.

II.

ANALYSIS

A. The DEIR Adopts The Same Approach That The Court Rejected Last Year In The UGB Lawsuit.

The Project includes significant amendments to the City's General Plan which would (1) establish the UGB, a permanent urban limit line, (2) prohibit major modifications of the UGB except during a comprehensive update of the General Plan, which only occurs every 8 to 10 years, and (3) require numerous findings prior to approving any such major modification, which conditions are so burdensome, inflexible and vague that they effectively preclude any future modification (the "City Text Amendments"). The Project also includes (a) amendments to Title 18 of the San Jose Municipal Code, (b) amendments to the County's General Plan (the "County

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General Plan") and (c) the City's and County's joint adoption of a Joint Policy Statement.

The San Jose City Council (the "City Council") and the County Board of Supervisors (the "Board of Supervisors") originally approved various components of the Project on November 18 and November 19, 1996, respectively. In connection with those approvals, the City and County adopted mutually exclusive Negative Declarations which concluded that their respective components of the UGB would have no significant environmental effects. Those conclusions were largely based on the premise that the UGB simply maintained the status quo and hence would have no impact on the environment. For example, the City's Initial Study included the following statements: (1) the UGB will not increase or diminish the existing or planned supply of land available for urbanization under the San Jose 2020 General Plan"; (2) the UGB does not create any additional adverse effects on the environment as identified in the [General Plan EIR] since the amounts and location of potential urban development remains the same"; and (3) the number and location of the housing units that can be accommodated under the General Plan remain the same." (City Administrative Record ("CAR") 659; see also CAR 624, 625, 671-672, 521, 547)^{1/}

Our clients filed a lawsuit alleging that the failure of the City and County to prepare an environmental impact report analyzing the impacts of the proposed UGB violated the California Environmental Quality Act ("CEQA").^{2/} At the conclusion of that case, the court invalidated the adoption of the UGB and required the preparation of an environmental impact report ("EIR") prior to any further action with respect to the

^{1/} References in this letter to the "City Administrative Record" refer to the administrative record prepared by the City in connection with Naess et al. v. The City of San Jose et al., Santa Clara Superior Court Case No. CV762931 (the "UGB Lawsuit"). We hereby incorporate by this reference the entire City Administrative Record, the administrative record prepared by the County with respect to the UGB Lawsuit and all pleadings in the UGB Lawsuit.

^{2/} The State Office of Planning and Research has promulgated guidelines to implement CEQA. 14 Cal. Code of Regs. §§ 15000 et seq. (the "Guidelines").

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UGB. In reaching its decision, the court rejected the assertion of the City and the County that the proposed UGB merely preserves the status quo and will have no effect upon the environment.

The drafters of the DEIR have stubbornly maintained this discredited argument in preparing the DEIR. The DEIR, like the Initial Study, studiously avoids talking about the publicly acknowledged purpose of the Project -- to block the continuing outward spread of development by severely restricting governmental discretion to approve projects within the City's sphere of influence but beyond the City's present Urban Service Area. The DEIR instead mischaracterizes the Project as the maintenance of the status quo. In doing so, the City disregards the voluminous comments made by City officials and local residents during the prior administrative proceedings that further urban development in the Greenbelt is inevitable without the UGB and that the displacement of the housing that would have developed in the Greenbelt to other locations is likely to occur and will have impacts. Once again, the City uses its disingenuous assertion that the UGB does nothing as a pretext for simply cutting and pasting the outdated General Plan EIR as a substitute for analyzing the impacts of the UGB.

As a result, the DEIR utterly fails as an informational document. After briefly describing the Project, the DEIR devotes 132 of its 178 pages (pp. 21-152) to a discussion of the Project's environmental setting, impacts and mitigation measures. However, that analysis has nothing whatsoever to do with the UGB's real world environmental impacts. Indeed, this pivotal section of the EIR begins with the assumption that the UGB will have no environmental impacts. DEIR, p. 21. Instead of evaluating the environmental impacts associated with the UGB, the DEIR purports to re-analyze the individual and cumulative environmental impacts resulting from build-out under the 2020 General Plan and the County General Plan (collectively the "General Plans") and simply restates the environmental analysis included in the Final Environmental Impact Report for the 2020 General Plan proposed in April, 1994. (the "GP EIR") (CAR 3897) Indeed, two of the three technical reports attached as Appendices to the DEIR are the same reports attached as Appendices to the General

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Plan EIR. (Compare DEIR, Appendices B and E, to CAR 1301, Appendices H and I).^{3/}

The only mention of possible impacts from the UGB occurs in the five-page Secondary Impacts section of the DEIR, in which the drafters circumvent meaningful analysis by summarily dismissing as "speculative" all of the potentially significant environmental impacts associated with the proposed UGB. This is precisely the same argument that the City and County advanced to justify their Negative Declaration. It was not a convincing excuse then, and it is no more convincing now. It is doubtful that this reiteration of an excuse in place of even a minimal effort to investigate and analyze the consequences of the Project is what the court had in mind when it directed the City and County to comply with CEQA. An EIR must be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. State CEQA Guidelines ("Guidelines") § 15151; Stanislaus Natural Heritage Project v. County of Stanislaus, 48 Cal. App. 4th 182, 193 (1996). Instead, the 178 page DEIR contains no more environmental analysis than did the discredited 18 page Initial Study and Negative Declaration of a year ago.

B. The DEIR's Analysis Of The Proposed Project's "Direct" Environmental Impacts Actually Has Nothing To Do With The Project.

The DEIR consists of 176 pages of text, 132 of which discuss the purported "direct" environmental impacts associated with the proposed Project. DEIR, pp. 21-152. However, Section II of the DEIR does not include any analysis of the environmental impacts associated with the proposed Project. The DEIR is quite clear on this point. Section II begins with an introductory note that

"[t]he analyses in this section are all based upon the assumption . . . that the proposed UGB simply reinforces existing General Plan policies which limit development

^{3/} The City's intent to restate the analysis in the General Plan EIR may explain why it retained David J. Powers & Associates to prepare the DEIR, the same consulting firm that prepared the General Plan EIR.

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outside the USA. Therefore, the amount of planned development would not change with the adoption of the UGB." Id., p. 21.

The DEIR then proceeds to examine a range of environmental categories, but in each case the DEIR never actually analyzes the environmental impacts on the existing environment resulting from the creation of the UGB. Instead, at best, the DEIR discusses the various environmental impacts associated with implementation of the General Plans and repeatedly and summarily concludes that the UGB will have no impact whatsoever on the implementation of the General Plans. See, e.g., DEIR, pp. 25, 26, 27, 28, 29, 31, 32, 33, 36-37, 45-46, 47, 54, 55, 56, 63, 66, 70, 72, 86, 87, 112, 121, 122, 129, 130, 131, 135, 140, 141, 142, 143, 148, 148-49, 150, 151, 152. As a result, Section II, at best, analyzes nothing more than the environmental impacts associated with the implementation of the General Plans.

To illustrate this non-analysis, consider the DEIR's evaluation of flooding, drainage and water quality in Section II.D of the DEIR. Id., pp. 51-60. That analysis begins with a three-page discussion of the existing setting. Id., pp. 51-54. That is followed by approximately three pages of discussion regarding the potential flooding, drainage and water quality impacts associated with implementation of the General Plans (as discussed below, that analysis is artificially and unlawfully limited to the Intensification Corridors and Urban Reserves). Id., pp. 54-56. Following that analysis, the DEIR summarily concludes that the proposed UGB would not alter those impacts in any way. Id., pp. 55, 56.^{4/} The section concludes with approximately five

^{4/} For example, the DEIR concludes that

"[d]evelopment associated with implementation of the existing San Jose and Santa Clara County General Plans with or without the UGB could result in cumulatively significant flooding and drainage impacts from the development of adopted and proposed land uses, including the eventual development of the Urban Reserves. . . . These impacts are the result of development of design land use as allowed by the existing General Plan, and are not the result of adoption of an Urban Growth Boundary.

(continued...)

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pages of mitigation measures, most of which simply require adherence to certain goals and policies in the 2020 General Plan. Id., pp. 56-60. Obviously, those mitigation measures are meaningless because the DEIR failed to examine the UGB's environmental impacts in the first place.

C. Even If Section II Of The DEIR Had Analyzed The Project's Environmental Impacts, The Methodology Used By The City Is Wholly Inadequate.

As discussed in the previous Section, the core analysis in Section II of the DEIR has nothing to do with the proposed Project, and in fact presupposes that the UGB cannot possibly have any adverse environmental effects. However, even if Section II had analyzed the proposed Project's potentially significant environmental impacts, that analysis would have been wholly inadequate because the City failed to analyze those impacts in the manner required by law.

Both the Mundie Report and the Smith Report discuss in some detail the improper and unlawful methodology in Section II. We have similar and additional concerns regarding the adequacy of the DEIR's analysis, as follows:

1. The DEIR Unlawfully and Arbitrarily Focuses Analysis Solely on the Intensification Corridors, Urban Reserves and the UGB Interface.

An EIR for a general plan amendment must examine the impact of that amendment on the actual physical environment. Environmental Planning & Information Council v. County of El Dorado, 131 Cal. App. 3d 350, 354 (1982). A lead agency cannot pick and choose which aspects of the physical environment will be examined in an EIR.

^{4/}(...continued)

(ADOPTION OF THE UGB WILL NOT CAUSE SIGNIFICANT FLOODING IMPACTS OR INCREASE THE SEVERITY OF SUCH IMPACTS, OR REDUCE THE ABILITY OF THE CITY AND COUNTY TO MITIGATE OR AVOID SUCH IMPACTS.)"

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However, the City did just that in the DEIR. Specifically, the City artificially narrows the scope of the environmental analysis by focusing solely on the Intensification Corridors, the Urban Reserves and at times, the UGB interface. DEIR, pp. 26-29, 35-36, 37, 45-46, 46-47, 54-55, 63-65, 70-71, 84-85, 86, 87, 141. The only rationale offered for this arbitrary analysis is that the Intensification Corridors are specifically intended by the 2020 General Plan to absorb some of the increased demand for housing and other urban services. Id., p. 26.

That explanation is extremely unpersuasive for several reasons. First, residential development could occur at many locations within the proposed UGB other than the three areas arbitrarily selected by the City. As just one example, the 2020 General Plan converted the land use designations for five sites from non-residential to medium high and high density residential. (CAR 1300 (pp. 18, 19, 2797-2798)) The 2020 General Plan projects that 3,300 residential units will be constructed on the converted lands. How could the DEIR address the Intensification Corridors, but simply ignore these five sites?

Second, the DEIR offers no explanation for the arbitrary inclusion of the Urban Reserves and UGB interface. In particular, it seems apparent that the City focused on the Urban Reserves because the current 2020 General Plan effectively precludes development there during the life of the 2020 General Plan. With respect to the Coyote Valley Urban Reserve, the 2020 General Plan expressly states that

"[f]uture urban development [of the Coyote Valley Urban Reserve] is expected outside of the time frame of this General Plan and can only be considered conceptually in this Plan. Given these factors, the preparation of a plan for the Coyote Valley Urban Reserve is beyond the scope of this General Plan." (CAR 1299, p. 161)

In addition, the 2020 General Plan includes a significant number of "prerequisite conditions" to the "consideration" of development in the Coyote Valley Urban Reserve which are quite similar to the heavy-handed criteria for major modifications to the UGB set forth in the City Text Amendments. (CAR 1299, pp. 161-63) This represents a dramatic shift from the City's previous policy set forth in the Horizon 2000 General Plan, which expressly permitted up to 9,000 dwelling units in the Coyote Valley Urban Reserve. (CAR 1326, p. 103) Therefore, no residential development in the Coyote

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Valley Urban Reserve will occur before the year 2020, if ever, and the DEIR's analysis of the proposed UGB's impact on the Coyote Valley Urban Reserve is illusory at best.

The same analysis applies to the South Almaden Valley Urban Reserve, except that the 2020 General Plan permits the construction of a small number of residential units (2,000) prior to the year 2020 if all of the burdensome criteria in the 2020 General Plan are met. *Id.*, pp. 158-61.

Third, the 2020 General Plan includes a number of procedures and mechanisms that conceptually permit residential densification in many other areas of the City beyond the 52,900 units projected in the 2020 General Plan and analyzed in the General Plan EIR. For example, the Discretionary Alternate Use Policies set forth in the 2020 General Plan permit a substantial increase in residential development intensity without general plan amendments.^{5/} (CAR 1299, pp. 179-83)

2. The Planning Horizon for the 2020 General Plan is the Year 2020, but the DEIR Unlawfully Limits its Analysis to the Year 2010.

As the name suggests, the planning horizon for the 2020 General Plan is the year 2020. (CAR 1300, p. ii; DEIR, p. 27) However, for unexplained reasons, the DEIR fails to examine any environmental impacts beyond the year 2010. For example, in its analysis of population, housing and employment, the DEIR falsely states that the 2020 General Plan anticipates the construction of an additional 52,900 residential units between 1995 and 2010, when in fact those 52,900 dwelling units are projected through the year 2020. DEIR, p. 31. As a result, and as discussed in the Mundie Report, the DEIR falsely concludes that the 2020 General Plan projects more growth than the ABAG projections in *Projections* 98. *Id.*, pp. 29-30, 156.

^{5/} As noted in the Landis Report and the Mundie Report, the DEIR fails to set forth any data or analysis regarding the current residential holding capacity inside the proposed UGB and note that the actual holding capacity may be inadequate to satisfy any or all of the excess housing demand currently accommodated in the Greenbelt.

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This artificial limitation precludes a lawful analysis of the environmental impacts associated with the proposed Project. For example, as discussed in the Smith Report, a proper traffic analysis would first require the calculation of baseline traffic levels in the year 2020 without the Project. By using a 2010 baseline instead, the DEIR arbitrarily reduced the baseline traffic levels, which in turn significantly understates cumulative traffic levels both with and without the Project, in the year 2020.

3. The DEIR Includes an Impermissibly High Threshold of Significance for Evaluating Land Use Impacts.

The DEIR includes several significance thresholds for evaluating land use impacts, the first of which is that a land use impact is considered significant if the project will "induce substantial growth or concentration of population which is incompatible with established community goals and/or infrastructure capacity." DEIR, p. 24.

That threshold sets an impermissibly high standard for a finding of significance. Appendix G, Item (k) of the State CEQA Guidelines states that a project may be deemed to have a significant affect on the environment if it will "induce substantial growth or concentration of population." It does not also require that growth to be "incompatible with established community goals and/or infrastructure capacity." In addition, Appendix I to the State CEQA Guidelines indicates that a project will have a significant environmental affect if it would "induce substantial growth in an area either directly or indirectly." Clearly, the City focuses on incompatibility with community goals here not because it is relevant, but simply as a platform for repeating the City's consistent theme that the proposed UGB is consistent with the 2020 General Plan notwithstanding that the Project includes significant amendments to the 2020 General Plan.

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D. The Secondary Impacts Section of the DEIR Fails to Analyze the Reasonably Foreseeable Secondary Impacts of the Project.

The DEIR, having spent the first 152 pages finding that a different project, the 2020 General Plan, has no direct impact on the environment, then turns its attention to secondary impacts of the proposed Project in Section IV. DEIR, p. 153-158. This meager five-page discussion is the only grudging attention paid in the DEIR to the significant Project impacts that numerous members of the public, independent experts and our clients repeatedly raised during the prior administrative proceedings and which were the basis of the decision against the City in the UGB Lawsuit. Now, the authors again mischaracterize the Project's severe legal restrictions, which essentially prohibit local government from permitting development in the Greenbelt for the foreseeable future, as "simply reinforcing existing limits on urbanization." *Id.*, p. 153. The only existing legal limits on urbanization, however, are (1) the fact that the land in the Greenbelt currently carries zoning designations, such as non-urban hillside or agricultural, that do not permit urban development; and (2) the general greenline policy statement in the 2020 General Plan (which has never received environmental review). But zoning designations are easily changed by local government, and the greenline policy is just that, a policy. It does not fix a specific greenline, it does not impose specific restrictions on local government, it does not prohibit local government from deciding that particular land should or should not be part of a greenbelt, it does not require that virtually unachievable preconditions be met before even considering development in the greenbelt, and it does not prohibit consideration of development in the greenbelt for years at a time, even assuming the preconditions could be met.

In short, saying that the Project "merely reinforces existing limits on urbanization" is akin to saying that the adoption of a law prohibiting the manufacture of cigarettes would have no impact because it merely reinforces a current policy discouraging smoking. A general policy statement that does not contain implementing provisions may or may not have impacts. Implementing legislation that contains specific, mandatory provisions will have environmental impacts. By ignoring this obvious reality, the DEIR fails to address the direct impacts of the Project in the first 152 pages of the report, and by adhering to the same flawed premise it similarly fails to address the secondary impacts of the Project in the meager, five-page Secondary Impacts section.

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1. The DEIR Contains No Environmental Analysis of the Secondary Consequences of the Project at All.

The lead agency is required by CEQA to evaluate the environmental significance of both the direct consequences of project approval (such as dust and noise levels raised by construction equipment building a project) and the secondary consequences (such as increased population growth, increased traffic and additional pressures on endangered species generated by the project). Guidelines § 15064(d). Often, the most significant environmental impacts of a project are secondary impacts. CEQA requires the same thorough evaluation of secondary environmental consequences that it requires of direct consequences.

The City has failed to include any meaningful environmental review of the secondary environmental consequences of the Project in the DEIR. As Professors Knaap and Landis both note, an urban growth boundary that is drawn too tightly around existing development and which fails to adequately plan for future housing demand may result in the displacement of demand to areas where the adverse impacts will be greater. The prior administrative record and the exhibits submitted herewith are replete with evidence that the UGB may be drawn too tightly and thus will significantly accelerate and worsen the urban sprawl that is already occurring to the south and west of San Jose in San Benito County and in the Central Valley. See, generally, Mundie Report; Landis Report at 2. There is abundant evidence as well that for the same reason the proposed UGB will increase the rate and amount of infill in San Jose to levels that have previously been found environmentally unacceptable. Yet the five page Secondary Impacts section of the DEIR provides no analysis of these impacts whatsoever.

2. The Secondary Impacts of the Project are Not Too Speculative to Analyze.

The DEIR dismisses the need for environmental review of the secondary impacts of the project by dismissing these impacts as "too speculative." The City concedes that growth inside the UGB could occur at an accelerated rate, but dismisses that possibility as "highly speculative." DEIR, p. 155. The City also admits that increased competition could increase housing prices (and therefore discourage affordable housing), but again concludes in summary fashion that the issue is "too speculative to warrant further discussion in this EIR." Id. The City next summarily

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dismisses any possibility that the UGB could result in "leap frog" development, based on the false assumption that leap frog development can only occur if the City "runs out" of residential land inside the UGB, a possibility "too speculative for further discussion." Id., p. 157.

Section 15145 of the CEQA Guidelines states that "[i]f, *after thorough investigation*, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact." [Emphasis added.] But the DEIR offers no indication that any investigation was made as to whether the identified secondary impacts are too speculative for analysis. Indeed, the identified secondary impacts are the very subjects that planners typically focus on when designing urban growth boundaries. Knaap Report at 3 - 4; Landis Report at 1, 2. As Mundie, Knaap and Landis all discuss and show, there are accepted methodologies for identifying, quantifying and analyzing such impacts resulting from an urban growth boundary. These methodologies are set forth in greatest depth in the Knaap Report.

The methodology requires the lead agency to develop a reasonable forecast of housing demand in the affected area during the duration of the urban growth boundary; to identify the land available for infill development; and to estimate the number of residential units that available land can reasonably accommodate. Landis Report at 1 - 2; Knaap Report at 3 - 4; also, see generally, Mundie Report. The impact of this housing on transportation, public services, parks, schools and other infrastructure as well as other secondary impacts can then be analyzed. The City did not follow this methodology in the DEIR.

a. The DEIR Understates Demand to Give a False Impression of Adequate Capacity.

The DEIR incorrectly concludes that the 2020 General Plan provides for adequate housing to meet forecast demand. This incorrect conclusion is the basis for concluding that the Project will not create pressure for unacceptable levels of densification within the UGB and promote far flung urban sprawl. But, as the Mundie Report shows, even when the 2020 General Plan was adopted several years ago, it was not intended to accommodate all of the households that were then expected to locate in San Jose. Mundie Report, p. 5.

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The DEIR obscures the excess demand for housing in San Jose by juggling the numbers. The DEIR looks at the demand forecast in *Projections 98* compiled by the Association of Bay Area Governments ("ABAG"). But, although the time frame of the 2020 General Plan runs through the year 2020, the authors of the DEIR inexplicably ignore the demand figures through the year 2020 provided in *Projections 98* and choose to focus, instead, on demand only through 2010. This choice allows the City to understate demand and to cobble together an argument that 52,900 housing units provided for in the 2020 General Plan are more than adequate to fulfill all foreseeable housing demand.

The Mundie Report shows that even when the 2020 General Plan was prepared it was understood that even through 2010 it provided 13,100 fewer housing units than necessary to meet demand. Mundie Report, p. 5. These "extra" housing units would have had to be provided either through expansion of the USA or through more intensive infill -- which was found to have serious, adverse environmental impacts. The Mundie Report then looks at *Projections 98* and analyzes housing demand in San Jose through the full duration of the current general plan. Mundie concluded that, based upon *Projections 98*, the foreseeable demand will require the addition of more than 64,000 dwelling units between now and 2020 -- at least 11,000 more units than presently provided for in the 2020 General Plan. The DEIR should be revised to base its analysis on this more realistic forecast of housing demand for San Jose through the planning horizon of the current 2020 General Plan.

b. The DEIR Does Not Meaningfully Analyze Holding Capacity.

The Mundie Report shows that the DEIR did not properly analyze the capacity of the area within the proposed UGB to accommodate the forecast demand for housing. The 2020 General Plan provides for 52,900 additional residential units in San Jose during the period from 1994 through 2020. As indicated above, the DEIR incorrectly concludes that capacity is adequate to accommodate demand. But, acknowledging the possibility of excess demand, the DEIR suggests that additional capacity exists in the Intensification Corridors, the South Almaden Valley Urban Reserve and the Coyote Valley Urban Reserve. But the DEIR fails to identify how much capacity for additional housing actually exists in each of these locations, taking actual site conditions and other constraints on development (such as odd parcel sizes, contamination, lack of access and existing land use restrictions) into consideration.

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Indeed, two of the largest identified areas for infill, the South Almaden Valley and Coyote Valley Urban Reserves, are subject to express 2020 General Plan preconditions that must be met before any significant number of housing units can be constructed. As the Mundie Report observes, these preconditions are *de facto* prohibitions on any development in the Coyote Valley Urban Reserve and on any development beyond 2,000 units in the South Almaden Valley Urban Reserve. The DEIR also fails to consider the densities at which infill development can occur. As the Landis Report indicates, the densities assumed in the DEIR far exceed realistic market densities for the area. The DEIR should be revised to include a thorough analysis of the holding capacity of each of the areas available for infill development within the proposed UGB, including an analysis of anticipated densities, and the likelihood of each being available to meet demand.

c. The DEIR Fails to Quantify the Pressure for Far Flung Sprawl that Will be Created by the Project.

The DEIR does not contain any analysis of whether the UGB will redirect unmet housing demand in San Jose outward to leap frog developments in sections of Santa Clara Valley beyond the Greenbelt, to San Benito County and to the Central Valley. Professor Landis and Mundie both see this as a likely consequence of the UGB. Both are of the expert opinion that there is a realistic possibility that there is inadequate capacity at realistic densities to meet anticipated demand within the UGB and that the resulting excess demand will be redirected outward beyond the Greenbelt. The DEIR should conduct the holding capacity analysis discussed above to determine whether the current, realistic forecast demand for housing can be met by infill at realistic densities. The DEIR should then estimate the amount of forecast demand that will be redirected outward beyond the Greenbelt by virtue of the UGB, either because there is inadequate capacity within or because the capacity within will be at high densities that will drive a portion of demand to remote but less dense alternatives.^{6/}

^{6/} The DEIR observes that leap frog development is the result of buyers opting for lower density housing that is only available in the remote satellite developments of Santa Clara County, San Benito County and the Central Valley. This observation highlights one aspect of the cause and effect relationship between the Project, which promotes higher urban densities, and leap frog development.

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This analysis will permit the City to then analyze the impacts of the Project on the area outside of the UGB.

3. The DEIR Fails to Analyze the Possible Impact of the Project on the Location, Distribution, Density or Growth of a Population.

A project may be deemed to have a significant effect on the environment if it will induce substantial growth or concentration of population. Guidelines, Appendix G, Item (k). The City itself requires the preparation of an EIR for a project which will significantly alter the location, distribution or density of a population. The intended purpose of the Project is to redirect the future location, distribution and density of population in San Jose. The entire reason for the UGB is to prevent urbanization beyond its borders by limiting, to the point of extinction, the discretion of local government for the foreseeable future to permit development in the Greenbelt. The UGB is drawn tightly against several areas where there has been a recent, outward push of development to accommodate the growing population of San Jose. It is no secret that the clear intent of drawing the line as tightly as it has been drawn is to stop this outward thrust of development. If the Project is approved, a reasonably foreseeable consequence is that residential development which could have occurred in the Greenbelt will be displaced to other locations either within the UGB or out to remote locations beyond the Greenbelt. This is the whole idea.

The DEIR, however, coyly pretends that all that the Project does is preserve the status quo. DEIR 1-5, 153-4. Pivoting on this artificial point, the DEIR turns away from analyzing the real, intended consequences of the Project and focuses all of its attention on rehashing an old analysis of the impacts of pre-existing land use policies embodied in the General Plan. The impact of redirecting housing development away from its current path by erecting the UGB is nowhere analyzed in the DEIR. As our earlier discussion indicates, methodologies exist for analyzing the impact of the Project on population location, density, distribution and growth. The expert opinions set forth in the Mundie Report and in the Landis Letter provide convincing evidence that the Project will have its intended effect -- it will displace future housing from the Greenbelt to other areas, in either increased densities within the UGB or in leapfrog development beyond the Greenbelt. These are environmental impacts which must be analyzed under CEQA. The DEIR should be revised to include this analysis.

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4. The DEIR Fails to Analyze the Possible Impacts of the Project on Existing Traffic Conditions.

Increases in traffic which are substantial in relation to existing traffic load and capacity are significant impacts for purposes of CEQA. Guidelines, Appendix G, Item (I). The City generally finds that a project will result in significant impacts for purposes of CEQA if it will result in traffic conditions that are inconsistent with the City's transportation standard LOS "D." (CAR 667).

Traffic consultant Daniel Smith's expert opinion is that the transportation analysis in the DEIR is not an assessment of the Project. Smith Report, p. 2. As is the case throughout the DEIR, since the City operated on the premise that the Project merely preserves the status quo, its transportation analysis just restates the out-of-date analysis done of the transportation element of the General Plan EIR several years ago. Not surprisingly in these circumstances, Smith finds that the DEIR contains no meaningful assessment of the transportation consequences of the land use changes inherent in the proposed Project. Id. Smith also concludes that the City did not even do the basic ground work necessary to permit someone to do a transportation analysis of the project because the DEIR does not analyze how and where population growth will be redirected by the Project.

Smith says that to the extent that development location shifts caused by the project occur as densification within the UGB, the Project would increase traffic pressure on key freeways, expressways and arterial intersections already operating in deficiency conditions. Smith Report, pp. 5-7. To the extent that development shifts caused by the project occur in distant communities that are tributary to San Jose, the Project would increase traffic pressure on regional gateway corridors already operating in deficiency conditions. Smith Report. None of these possible effects of the Project are evaluated in the DEIR. As the detailed discussion in the Smith opinion illustrates, because of the deficient condition of major routes within San Jose and the similarly deficient condition of commuter routes to distant communities likely to receive redirected demand from San Jose, even *relatively minor* redistributions of population resulting from the adoption of the Project may have *significant* traffic impacts. Smith Report, p. 2, 5-7. These possible impacts should be studied in a revised DEIR.

The Smith Report also notes that, aside from studying the impacts of the wrong project (the General Plan) on the environment, the DEIR transportation analysis

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is deficient because it utilizes inadequate and outdated base-line data. Smith Report, p. 7-10. The use of this inadequate and outdated data may significantly understate impacts of the Project, as traffic conditions have worsened in the intervening years since this data was gathered.

5. The DEIR Fails to Analyze the Possible Impacts of the Project on the Supply of Low Income Housing in San Jose.

The City requires consideration of Project impacts which significantly reduce the supply of low-income housing or displace residents. (CAR 667) Santa Clara County already has the highest priced housing in the nation. Landis Report, p. 2. Both Mundie and Landis are of the expert opinion that the creation of a permanent urban limit line drawn tightly around the existing boundary of San Jose could substantially drive up the cost of housing and reduce the supply of low income housing within the UGB. See, generally, Mundie Report; Landis Report p. 2. This possible impact of the Project is not analyzed in the DEIR. A revised DEIR should include a thorough analysis of this possible impact.

6. The DEIR Fails to Analyze the Possible Impacts of the Projects on the Utilization of the Existing Infrastructure Including Parks and Recreation Facilities.

The City requires that an EIR consider the impact of a project on the demand for park and recreational facilities. (CAR 668) The Mundie Report finds that the urban area within the proposed UGB currently has insufficient park land to serve its existing residents, and that the displacement of population caused by the UGB will increase this deficiency by at least 83.6 acres. Mundie Report. This possible impact of the project is not analyzed in the DEIR and should be thoroughly analyzed in a revised DEIR.

7. The DEIR Fails to Analyze Various Other Possible Impacts of the Project.

Because its fundamental approach is so flawed, the DEIR fails to even consider the possibility of several other Project impacts. Encouraging activities which result in the use of large amounts of fuel, water, or energy may be deemed to be a significant effect for purposes of CEQA. Guidelines, Appendix G, Item (n). So too is

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the conversion of prime agricultural land to non-agricultural use. Guidelines, Appendix A, Item (y). CEQA also deems significant impacts which interfere with adopted environmental plans and goals of the community. Guidelines, Item (a). To the extent that development displaced from the Greenbelt by the Project relocates to distant developments in San Benito County or the Central Valley, both of these impacts may result. Workers who, if they were located close in to San Jose could take public transportation or commute for short distances by automobile would, if required to commute from the portions of Santa Clara Valley that lie beyond the Greenbelt, or the Central Valley or San Benito County, consume far larger amounts of fuel each day. In addition, while the land in the Greenbelt is of marginal agricultural quality, much of the land that is being converted to housing in the Central Valley is prime agricultural land. Moreover, the Project may interfere with established communities' goals. The Local Agency Formation Commission ("LAFCO") establishes growth management policies for the City's sphere of influence. Gov. Code § 56381. The DEIR fails to consider that the Project places a *de facto* constraint on LAFCO's authority to implement community goals.

E. The Alternatives Analysis In The DEIR Is Inadequate.

The alternatives analysis in the DEIR is seriously misleading and inaccurate for a number of reasons, each of which is discussed below.

1. The DEIR Fails to Analyze a Reasonable Range of Alternatives to the Project.

An EIR for a project must "[d]escribe a range of reasonable alternatives to the project . . . which would feasibly obtain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." Guidelines § 15126(d). An EIR "must produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned." San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino, 155 Cal. App. 3d 738, 750-51 (1984).

The DEIR fails these tests. The DEIR ostensibly includes six alternatives. DEIR, pp. 161-62. For the reasons discussed below and in the Mundie Report, all of those alternatives violate CEQA requirements in multiple ways.

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However, assuming for the moment that the alternatives were facially adequate, none of them differ substantially from the UGB concept and some of them are effectively meaningless or illusory. The first two alternatives are variations of the "no project" alternative required in any EIR. *Id.*, pp. 162-63. The third, fourth and fifth alternatives are all variations of the UGB (collectively, the "UGB Alternatives"): (1) a smaller area inside the proposed UGB; (2) a larger area inside the UGB; and (3) no minor modifications to the UGB. *Id.*, pp. 163-70. The sixth alternative is for the City to buy unspecified property on the edge of the urban envelope. *Id.*, pp. 170-71. According to the City, however, this alternative is infeasible on its face because the City has no funds to purchase the unidentified property. *Id.*

As a result, the DEIR utterly fails to analyze meaningful alternatives that differ substantially from the proposed Project. In our written response to the NOP dated January 16, 1998 (the "January 16 Letter"), we asked that the City include an alternative that permitted a "limited" or "creative" development program, combining the permanent conservation of large tracts of land in the Greenbelt with compatible new development (the "Limited Development Alternative"). DEIR, Appendix F. This type of development program has been used successfully throughout the country and would satisfy most, if not all, of the City's objectives. We also suggested a number of other components that could be included in such a development program, such as transferrable development rights.

In a brief discussion, the DEIR rejected this alternative, and refused to analyze it in the DEIR, for two reasons. First, the City stated that this alternative would be "environmentally inferior" to the proposed UGB because, "while this arrangement would secure some permanent open space, it would also allow additional development in the greenbelt." *Id.*, p. 160. The DEIR goes on to state that "there are no known environmental benefits that would result from allowing more development outside the USA." *Id.*, p. 161.

However, this summary dismissal of the Limited Development Alternative reflects the same tunnel-vision approach adopted by the City during the prior administrative proceedings for the proposed UGB that was rejected in the UGB Lawsuit. In addition to downplaying or ignoring the significant environmental benefit associated with the permanent preservation of large tracts of open space in the Greenbelt, the DEIR ignores that the environmental impacts of intensifying the amount and rate of residential growth inside the UGB and/or redirecting residential

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development outside the City's sphere of influence, one or both of which must occur to accommodate the excess housing demand discussed above if the UGB is adopted, would be avoided. As a result of this one-sided analysis, the DEIR undermines the purpose of the alternatives analysis -- to evaluate the comparative merits of the proposed project and the alternatives. Since the Limited Development Alternative would substantially lessen the significant environmental impacts associated with the proposed UGB, the Limited Development Alternative should not have been rejected on that basis.

Second, the City contends that the Limited Development Alternative is not compatible with the first four of the following six project objectives identified in the DEIR:

- a. Provide a greater degree of certainty for residents and property owners regarding the long-term expectations for urban development.
- b. Promote fiscally and environmentally sustainable development, particularly "infill" development, in locations where the City can most efficiently provide urban services.
- c. Preserve surrounding hillsides, wetlands and agricultural and other open space lands as a legacy for future residents and maintain the City's reputation as an attractive place to live and work.
- d. Protect public health and safety by preventing urban development in areas subject to natural hazards.
- e. Preserve options for the ultimate use of lands reserved for future growth, i.e., the Urban Reserves.
- f. Establish greater consistency between the City and County land use plans and development policies for areas within and outside the UGB. Id., p. 160.

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With respect to the first project objective, the Limited Development Alternative would provide a greater degree of long-term certainty regarding urban development than the proposed UGB. The dedication of large tracts of open space would permanently eliminate the development potential for that land. While the City Text Amendments would make urban development in the Greenbelt extremely difficult, the possibility remains that, over the long-term, the City could amend the 2020 General Plan to permit urban development in the Greenbelt in response to increasing development pressure.

With respect to the second project objective, we first note that the proposed UGB is not compatible with it. The proposed UGB encompasses both of the Urban Reserves, both of which are located in the Greenbelt and are similarly situated to other real property adjacent to, but outside, the proposed UGB, including our clients' properties. In fact, the Coyote Valley Urban Reserve is located farther from the City's urban core than our clients' properties. Equally important, the DEIR ignores the regional impacts of the leap frog development that will occur if the UGB is adopted. Obviously, that development will be located much farther from the City's urban core (and presumably from the urban core of other cities in the area) than the real property located adjacent to or near the proposed UGB.

With respect to the third project objective, the Limited Development Alternative would permanently preserve large tracts of open space in the Greenbelt and therefore preserve surrounding hillsides and other open space lands. As discussed above, while the proposed UGB would make it extremely difficult for urban development to occur in the Greenbelt, it is theoretically possible that, over the long-term, minor development could occur. Therefore, neither the proposed Project nor the Limited Development Alternative preserve 100% of the Greenbelt as open space, but both would significantly limit such development.

The fourth project objective appears to be a "throwaway" objective by the City. Obviously, the City would require mitigation of any potential hazard that would legitimately threaten the safety of residents in an urban development. As the City well knows, other residential development has previously been approved and constructed in the east foothills, including the Silver Creek Valley Country Club and the California Oaks and Emerald Heights projects. In addition, the DEIR does not include any evidence or data that geologic conditions in the south east foothills significantly differ from geologic conditions inside the proposed UGB.

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Accordingly, the Limited Development Alternative would feasibly obtain all of the legitimate project objectives. Please note, however, that, because the Limited Development Alternative is capable of avoiding or substantially lessening one or more significant effects associated with the proposed UGB, the DEIR must examine that alternative "even if [it] would impede to some degree the attainment of the project objectives." Guidelines § 15126(d)(1).

The January 16 Letter also suggests an alternative which provides increased flexibility for modifications of the UGB during the General Plan Annual Review that combine land conservation and creative development, as discussed above. That alternative would include incentives for development proposals which retire or protect key acreage, thereby permanently establishing an urban/rural boundary. While this alternative is similar in some respects to the Limited Development Alternative, it differs in other respects. However, the City fails to explain why this alternative was not considered in the DEIR.

2. The DEIR's Formulation and Analysis of the "No Project" Alternatives is Inadequate.

The "no project" alternative "shall discuss the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future of the project when not approved . . ." Guidelines § 15126(d)(4); see also County of Inyo v. City of Los Angeles, 71 Cal. App. 3d 185, 201 (1997) (the "no project" alternative must "describe what condition or program preceded the project.").

The two "no project" alternatives in the DEIR abjectly fail this test. The first "no project" alternative assumes that no further development would occur in the entire City. That alternative is nonsensical because there would be no moratorium on development in the City if the proposed UGB is not adopted.

The second "no project" alternative addresses development under the existing General Plans. The DEIR concludes, without analysis, that "[t]he physical impacts of implementing the City's General Plan without a UGB will be the same as physical impacts of implementing the General Plan with the UGB in place. Id., p. 163.

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However, that unsupported position starkly contradicts the overwhelming evidence to the contrary in the City Administrative Record that future urban development in the Greenbelt is inevitable without the UGB and severe restrictions on its modification. The *raison d'etre* for the UGB is to eliminate the City Council's discretion, as part of its annual review of the 2020 General Plan, to modify the location of the USA boundary line to extend urban services and permit development outside the existing USA. (CAR 1299 (pp. 53-54), 349, 546, 3568) Both City officials and residents acknowledged throughout the prior administrative proceedings that, in the absence of the UGB, urban development would continue to occur in the future in response to excess housing demand. (CAR 79:5-8, 378, 384, 391, 418, 421, 430, 432, 434, 440, 1755)^{2/}

Astonishingly, immediately after summarily concluding that the "no project" alternative would have no environmental impacts, the City concedes "the annual possibility of future General Plan amendments in the proposed UGB area." DEIR, p. 163. The City's disingenuous argument has undermined the very purpose of the "no project" alternative.

3. The DEIR's Analysis of the Three UGB Alternatives is Inadequate.

An EIR must "include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project." Guidelines § 15126(d)(3). An EIR must also "evaluate the comparative merits of the alternatives." Guidelines § 15126(d).

^{2/} At the time the UGB process commenced in 1995, Mayor Hammer stated that "[p]ressure to develop at the City's edge is never-ending precisely because an explicit boundary for urban development has not been set." (CAR 3568) Council member Fernandes stated the matter succinctly:

"If anyone thinks that the Greenline Initiative is unnecessary, if anyone thinks that the 2020 policy is sufficient, their eyes are closed and their ears are closed, because the pressure to develop these areas I spoke of is with us every day." (CAR 276:1-9)

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None of the UGB alternatives satisfies those requirements. The first of those alternatives would reduce the area inside the proposed UGB by excluding those portions of the Silver Creek Planned Residential Community and the Edenvale Redevelopment Area that currently have General Plan designations of "Non-Urban Hillside," as well as the Coyote Valley Urban Reserve.

The DEIR first concludes, employing the same flawed analysis evident throughout the DEIR, that placing the Non-Urban Hillside land outside the UGB would not change the amount of development allowed on that land and would therefore have no environmental effects. DEIR, p. 165. For the reasons set forth above, that conclusion is specious.

The DEIR then concludes that the exclusion of the Coyote Valley Urban Reserve from the UGB would be environmentally superior to the proposed Project because (a) the logical extension of that conclusion would be to remove the Urban Reserve designation and (b) the removal of the Urban Reserve designation would limit that area to agriculture, rural residential and private recreation land uses. *Id.*, pp. 165-66. That reasoning borders on the absurd because, as the City acknowledges in the DEIR, the development of the Coyote Valley Urban Reserve is outside the scope of the 2020 General Plan and the environmental impacts associated with that development were not addressed in the General Plan EIR. *Id.*, p. 163. Therefore, the DEIR's analysis is illusory and disingenuous.^{8/}

Finally, the DEIR ignores the obvious. If the UGB is tightened, either the density and/or rate of infill development within the UGB will intensify further and/or additional leap frog development will occur to accommodate excess housing demand. The DEIR fails to set forth any meaningful, quantified evaluation, analysis or comparison of the proposed Project and the alternative that would be necessary to evaluate their comparative merits.

^{8/} It is more than a little ironic that the City steadfastly ignores that the approval of the UGB would end the historic practice of expanding the existing USA to permit urban development in the Greenbelt, while simultaneously claiming that the exclusion from the UGB of the Coyote Valley Urban Reserve, which is itself open space, would result in environmental benefits.

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The second UGB Alternative would increase the area inside the proposed UGB to include our clients' property. Id., p. 166. The DEIR concludes that, by including that property within the proposed UGB, the eventual development of that property could result in a number of significant adverse impacts. Id., p. 169. The DEIR also states that this alternative would not reduce any of the cumulative environmental impacts likely to result from the implementation of the 2020 General Plan and the UGB. Id.

Once again, the DEIR refuses to address, much less analyze, the comparative environmental benefits of accommodating excess housing demand on a limited basis in the Greenbelt, in lieu of redirecting growth inside the UGB or beyond the City's sphere of influence. The relative environmental benefits and impacts of the proposed Project and this alternative may be debatable, but the point is that the DEIR does not include any comparative analysis between the proposed Project and any of the alternatives. Moreover, any project specific impacts must be addressed in a separate environmental analysis where mitigations are also discussed. Mundie Report.

The DEIR then concludes, with no explanation, that this alternative is incompatible with five of the six project objectives. For many of the reasons set forth above, that is untrue. Id., p. 169. In particular, since this alternative simply adjusts the proposed UGB, it would provide just as much certainty for residents and property owners as the proposed UGB.

The third of the UGB Alternatives would preclude minor modifications of the proposed UGB except as part of a comprehensive update of the 2020 General Plan. Id., p. 170. The DEIR concludes that this alternative would reduce environmental impacts between updates of the 2020 General Plan. Id. This alternative would further restrict urban development in the Greenbelt, but the DEIR ignores that this restriction would further intensify infill development within the UGB and/or result in leap frog development.

F. The DEIR's Analysis Of Growth Inducing Impacts Is Inadequate.

An EIR must "[d]iscuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment." Guidelines § 15126(f) (emphasis added). In a four-sentence discussion, the DEIR summarily dismisses any

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possibility of growth inducing impacts, stating that the proposed UGB "will not allow any more development inside the USA than is already allowed by the City's General Plan" and "will not create any precedent that will encourage or enable growth outside existing urban boundaries." DEIR, p. 176.

The City's abbreviated analysis is fundamentally flawed for a number of reasons. First, the City again ignores that the central purpose of the proposed UGB is to put an end to urban development in the Greenbelt to accommodate excess housing demand, and that the inevitable result is to redirect growth that otherwise would continue to occur in the Greenbelt to locations inside the UGB or outside the City's sphere of influence.

Second, the DEIR falsely assumes that the 2020 General Plan restricts residential growth to 52,900 units. However, as the City is well aware, the 2020 General Plan projects the construction of 52,900 residential units through the year 2020, but does not prohibit additional residential development.

Third, the City forcefully argues earlier in the DEIR that leap frog development will not occur precisely because the City can accommodate more than 52,900 residential units inside the UGB. Id., pp. 155-57. The City cannot have it both ways. If the City is correct, than residential development in excess of 52,900 units can be accommodated inside the UGB, but the environmental impacts associated with those additional units were not analyzed in the General Plan EIR or the current DEIR.

For these reasons, and as more fully set forth in the Landis Report, the Knapp Report and the Smith Report, the DEIR's growth inducing impacts analysis is facially inadequate.

III.

CONCLUSION

It is unfortunate and somewhat remarkable that, notwithstanding the decision in the UGB Lawsuit, the City steadfastly refuses to acknowledge that the proposed UGB represents a major shift in land use policy with potentially enormous environmental impacts. As a result, the DEIR not only fails to provide any analysis

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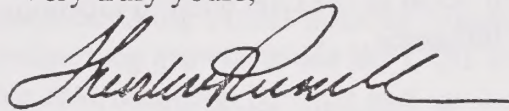
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regarding the environmental impacts associated with the proposed UGB, the DEIR conceals its true purpose.

The foregoing comments on DEIR are not minor quibbles. The DEIR is fundamentally flawed and, we believe, would not survive judicial scrutiny. Our clients respectfully request that the City revise the DEIR to comply with CEQA and recirculate the document.

Very truly yours,



Theodore A. Russell

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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cc: San Jose City Council
Santa Clara County Board of Supervisors
Mr. and Mrs. Edmund Richmond II
Mr. Paul Yuen
Ms. Lise Hinman
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Jack Rubens, Esq.

Memorandum

To: Jack Rubens, Sheppard Mullin Richter & Hampton
Ted Russell, Sheppard Mullin Richter & Hampton

From: Mundie & Associates

Subject: Evaluation of the Draft Environmental Impact Report for the
San Jose Greenline/Urban Growth Boundary

Date: June 29, 1998

Mundie & Associates (M&A) is a consulting firm that provides services related to the economics of land use. Founded in 1981, M&A has a practice that includes preparation of CEQA documents (e.g., Environmental Impact Reports and Negative Declarations) as well as economic and fiscal background studies for planning, fiscal impact analyses, and planning strategy studies. Key staff members hold masters degrees in planning, and each has more than 25 years of professional experience. Resumes for key staff members who contributed to the analysis described in this memo are appended.

As you requested, we have reviewed the Draft Environmental Impact Report for the Greenline/Urban Growth Boundary, prepared by the City of San Jose and Santa Clara County ("the DEIR"). Based on this review, we have concluded that the DEIR does not meet the requirements of the California Environmental Quality Act (CEQA) to provide information about the proposed adoption of an Urban Growth Boundary (UGB) that would be established by the City of San Jose for the expressed purpose of "identifying the long term limit for urban development and extension of urban services within the City of San Jose" (p. 1 of the DEIR). Our conclusion is based on the following problems with the DEIR:

1. **The DEIR Focuses on the General Plan, not the UGB.** It consequently fails to consider the reasonably-foreseeable environmental impacts of the adoption of a permanent UGB. This problem is discussed beginning of p. 3 of this memo.
2. **The DEIR Does Not Evaluate the Impacts of a UGB.** The DEIR never acknowledges the differences in the pattern of growth that could occur after the establishment of a permanent UGB compared to those possible under the current General Plan, which regulates the outer limits of urban development by means of an adjustable Urban Service Area (USA). The differences are explained beginning on p. 4 of this memo. Following that explanation, this memo estimates the amount of development likely to be dislocated by the establishment of a UGB and the distribution of that dislocated development between infill and "leapfrog" sites. Beginning on p. 9, this memo identifies the likely environmental impacts of infill development that were not addressed in the DEIR; beginning on p. 12, it identifies likely environmental impacts associated with leapfrog development, which also were not discussed in the DEIR.

3. **The DEIR implies that additional infill development will accommodate all units that could have been located in an expanded USA, but does not demonstrate that infill development is actually achievable.** This memorandum discusses the physical and market conditions that are required to achieve infill development (beginning on p. 13), and then questions whether the approaches identified by the DEIR for increasing the supply of infill sites will actually be effective.
4. **The DEIR classifies the impacts associated with leapfrog development as secondary impacts, and inappropriately dismisses them as beyond the scope of this EIR or "speculative."** This memo explains why the impacts of the project are primary, rather than secondary, impacts, and provides detailed discussions of four problems with the DEIR's characterization of these impacts as "beyond scope" and "speculative." This section of the memo begins on p. 19.
5. **The DEIR does not compare conditions with the proposed project to existing environmental conditions.** After citing the section of the CEQA guidelines that requires comparison to existing conditions (rather than to future conditions under the current General Plan, as this DEIR purports to do), this memo identifies (beginning on p. 22) the types of information the DEIR should have presented to provide a baseline for comparison of future conditions with the project, and consequent identification of significant impacts.
6. **The DEIR does not provide current information about existing conditions.** This section of the memo (p. 26) reiterates that whatever information about existing conditions appears in the DEIR is not current; instead, it is copied from the General Plan EIR, which was published in 1994.
7. **The DEIR does not adequately address growth-inducing impacts.** The DEIR dismisses the growth-inducing impacts of the proposed UGB in four sentences. This memorandum describes (p. 26) the topics that should have been covered in an adequate discussion of growth-inducing impacts.
8. **The DEIR definition and analysis of alternatives is inadequate.** As discussed beginning on p. 27 of this memo, the DEIR does not consider any meaningful alternatives that are not based on the UGB concept, and inappropriately dismisses the "limited development" alternative that you suggested in response to the Notice of Preparation as environmentally inferior.
9. **The DEIR does not address the significance criteria that it establishes for defining impacts.** Although the DEIR identifies criteria that would define the thresholds for significance of impacts, it almost never provides the information necessary to apply those criteria, and does not address them in most sections of the DEIR. This section of the memo, beginning on p. 34, discusses significance criteria for land use, transportation, and air quality. Treatment of other significance criteria is discussed in an appendix to the memo.

1. The DEIR Focuses on the General Plan, not the UGB.

The purpose of the UGB, as indicated by the project objectives (DEIR, p. 11), is to establish a perimeter beyond which new urban development will not occur. This perimeter is intended to provide a long-term boundary between those lands that would receive urban services and lands that would not. The fact that a UGB is required to provide this boundary is *de facto* evidence that, absent such a boundary, the urban area would continue to expand in response to the need for housing and residential support services that are associated with San Jose's growing employment base.

Nevertheless, the DEIR asserts (p. 21) that "the proposed UGB simply reinforces existing General Plan policies which limit development outside the USA [urban service area]. Therefore, the amount of planned development does would not change with the adoption of the UGB." This assertion ignores the inevitable consequence of adopting a permanent UGB: that it would alter the *locations* of new development by prohibiting development in the next logical locations – that is, adjacent to already-developed neighborhoods on the edge of the urban area, where much development has historically occurred in San Jose – and consequently forcing that development, which is needed to accommodate forecast growth in San Jose, either to infill sites or to more distant locations, beyond the San Jose Sphere of Influence (SOI).

Relying on the assumption, quoted above, that the UGB would simply reinforce the policies of the 2020 General Plan ("the General Plan"), the DEIR frames its discussion of environmental impacts in terms of the General Plan: throughout, it compares conditions with future development as permitted by the General Plan *with the UGB* to conditions with future development *without the UGB*. Thus, virtually every impact statement in the DEIR begins with the phrase, "Implementation of the City's General Plan . . ." or "Implementation of the City's General Plan with or without the UGB . . .". Similarly, text in the various "Impact" sections of the report states, typically, some topically-appropriate variation of, "These impacts are the result of development of lands in conformance with the existing General Plan, and do not result from the creation of a UGB." (This quote from p. 25, in the Land Use section of the DEIR.)

As a result, this DEIR does not consider the impacts of this project, which is adoption of a permanent UGB, on the pattern of development that was addressed in the General Plan EIR and the environmental conditions that are affected by the changes in that pattern that the UGB is intended to cause.

2. The DEIR Does Not Evaluate the Impacts of a UGB.

To satisfy the requirements of CEQA, the DEIR must evaluate the reasonably-foreseeable impacts of adopting a permanent UGB on the pattern of development and the consequences of the resulting pattern of development. The DEIR does neither of these: instead, it denies that the UGB would have any effect on the pattern of development, and then relies on that assertion to refute the possibility of any consequent impacts.

Impacts on the Pattern of Development

Background: Differences between the General Plan as Adopted and With a UGB

The General Plan establishes an Urban Service Area (USA), which is intended to define the area within which urban services will be provided and, therefore, urban development may occur. The Plan allows for modifications to (including expansions of) the USA by means of General Plan Amendments, which may be considered in the City's annual General Plan review process. The DEIR (p. 5) states, "Generally, the USA line marks a near term horizon and functions as a short-term growth boundary." The DEIR footnote to this statement references Government Code Section 56080, which defines a USA as "all lands within a city's sphere of influence that are served by urban services or proposed to be served by such services *during the first five years of a city's capital improvement program.*" (Emphasis added.) This definition of a USA is added to the General Plan by the amendments proposed as part of the project (see Appendix A, unnumbered page following the heading "Urban Service Area Boundary").

The UGB, in contrast, would be a permanent delineation of the boundary between urban and non-urban, and could not be moved except during a comprehensive General Plan update. The DEIR states (p. 1) that this boundary is intended to "identify the long term limit for urban development and the extension of urban services within the City of San Jose."

The DEIR distinguishes between the USA and the UGB on p. 6: "*The USA is a near- to mid-term urban limit line; the UGB is proposed as a long-term urban limit line.*" (Emphasis in original.) Nevertheless, the UGB and the USA are congruent in virtually every location, except that the USA does not encompass the two Urban Reserves defined by the General Plan and the UGB does. (See DEIR Figure 2, p. 3.) One of these Urban Reserves, Coyote Valley, is not expected to be developed during the time frame of the General Plan, and impacts of development there are not covered in the General Plan EIR. *Therefore, the only significant difference between the near-term USA boundary and the long-term UGB is the exclusion of the South Almaden Valley Urban Reserve from the USA. Therefore, the UGB as delineated in the City's proposal effectively establishes the USA, which has a five-year horizon, as the permanent boundary for urban development until a comprehensive General Plan update is completed.*

For reasons discussed below, it is not reasonable to assume that all development seeking to locate in San Jose during the term of the General Plan can be accommodated within this boundary. The impact of the boundary, therefore, will be displacement of development from the area that would have been encompassed by expansions of the USA to either (1) infill locations within the UGB or (2) "leapfrog" locations beyond the San Jose SOI.

Estimate of the Amount of Development that Would Be Dislocated by Adoption of a Permanent UGB

Based on the information that is available in the DEIR and the General Plan EIR, the demand for housing in San Jose will exceed the physical and market capacity of lands within the UGB, and both types of dislocation effects – that is, infill and leapfrog – will occur. This conclusion is based on the following evidence:

- **The General Plan projects development of 52,900 housing units.**

The Plan would accommodate these housing units in the following inventory of development sites (General Plan FEIR, Table 5, p. 11):

Location	Units
Existing vacant residential lands (1992 General Plan)	35,000
South Almaden Valley Urban Reserve	2,000
Non-vacant lands designated for or allowing for residential	6,000
Converted non-residential lands (<i>Converted Sites</i>)	3,300
Intensification corridors (<i>Intensification Corridor Sites</i>)	6,600
Total	52,900

- **The General Plan projection falls short of expected demand for new housing units in San Jose.**

Even when the General Plan was adopted, it was not intended to accommodate all of the households that were then expected to locate in San Jose. At that time, the regional forecast for the Bay Area was *Projections 92*, published by the Association of Bay Area Governments (ABAG). Those projections anticipated that San Jose would gain 62,854 new households between 1990 and 2010 (General Plan EIR, p. 62).

Projections 92 did not extend beyond the year 2010. To provide a complete evaluation of the Plan, the General Plan EIR should have extended the projection through the year 2020; instead, it assumed "as a conservative 'worst case' that the anticipated development being evaluated would occur by 2010" (DEIR, p. 4)). In fact, this assumption is not a conservative worst case, because it does not consider the full amount of development that would be expected to occur over the entire period of the Plan.

To accommodate the 62,854 households requires more than 62,854 new housing units: housing markets require some vacancy factor to assure their smooth operation. A vacancy rate of five percent is generally accepted in the industry as the factor that is necessary. To provide for all the households anticipated through 2010, therefore, would have required San Jose to adopt a General Plan that provided for approximately 66,000 housing units. Therefore, even when the General Plan was adopted, it anticipated 13,100 fewer housing units *through the year 2010* than were indicated by the ABAG projections. These "extra" housing units would either have to have been accommodated in expansions of the USA or by more intensive development of the infill sites within the USA (vacant lands, Intensification Corridors, and Conversion Sites), or would have gone to "leapfrog" sites beyond the San Jose Sphere of Influence.

ABAG *Projections 98*, the current set of regional forecasts (published in December, 1997), clearly identifies a shortage of housing sites in San Jose (text, p. 204). *Projections 98* forecasts an increase of nearly 79,800 households in San Jose between 1990 and 2020, including 60,980 new households between 1995 and 2020. Allowing a five percent vacancy rate would require more than 64,000 additional housing units just for the growth expected between 1995 and 2020. This increase would require 11,100 "excess" housing units (that is, units in excess of the number

anticipated in the General Plan). (Even with *no* additional vacancies, the number of new households would exceed the number of new units anticipated in the General Plan.)

The DEIR (p. 156) says that ABAG projections "reflect a demand for 51,360 dwelling units" during "roughly" the time period "after 1995 and before sometime between 2010 and 2020." In fact, as noted above, *Projections 98* forecasts an increase of 51,360 households between 1995 and 2010, and an additional increase of 9,620 households between 2010 and 2020, for a total of 60,980 new households in San Jose between 1995 and 2020. To characterize this projection as applying to housing units, rather than households, is to imply that there is no need for vacant units, which are required to assure smooth operation of the housing market. As noted above, five percent is the generally-accepted vacancy factor, and applying that factor to the ABAG forecast of households yields an estimate of need for more than 53,900 housing units between 1995 and 2010, and more than 64,000 units between 1995 and 2020.

- **Whereas the USA system would allow expansion of the area available for development via a relatively simple process, the UGB system prohibits modification of the boundary absent a full General Plan Update.**

The proposed text amendment to the General Plan that implements the UGB states (DEIR Appendix A, unnumbered page under the heading "**Modifications to the Greenline/Urban Growth Boundary**"), that the Greenline/Urban Growth Boundary is intended to be the ultimate limit to urban development in San Jose, and that all urban development should occur within this boundary. The DEIR goes on (same page) to establish conditions that must be established before significant modifications to the UGB may be considered. These conditions include

- Consideration of significant modifications only during a comprehensive update of the General Plan involving a community task force similar to the San Jose 2020 General Plan Update process.
- A finding by the City Council that (among other things) (1) the City's fiscal condition is stable, predictable, and adequate in the long term according to a five-year economic forecast for the City which projects a balanced budget or budget surplus for each of the forecast years and (2) the City is able to effectively provide and maintain urban services to existing residents and businesses at 1993 levels based on thorough fiscal analysis.

The General Plan update process occurs only periodically (typically not more than once per decade; the 2020 General Plan is only the second update since the mid-1970s) and typically takes several years (the 2020 Plan process was begun in 1992, and the Plan was adopted in 1994). Therefore, it is reasonable to expect that the UGB that is adopted now will be in place at least through the end of this decade, and perhaps through the year 2020 (the horizon year of the General Plan). With no date certain for the next update of the General Plan, the DEIR should properly evaluate the impacts of the UGB through that year (2020).

Given current legal constraints on the ability of local governments in California to collect revenues, it is unlikely that cities will ever again be able to demonstrate a "stable, predictable, and adequate" fiscal condition for five years into the future, especially if they are required to demonstrate that such a condition can be achieved with delivery of services at the level attained in any prior year (e.g., 1993). Therefore, it seems optimistic to anticipate any future change in the UGB once it is established.

Thus, *at a minimum*, housing in excess of the 52,900 units accommodated on sites designated for residential development in the General Plan – that is, the 11,100 “excess” units calculated above (64,000 to accommodate the additional households anticipated by *Projections 98* minus 52,900 anticipated by the General Plan) – will be dislocated either to infill sites, which will have to be developed at higher densities to accommodate those units, or to leapfrog sites. This estimate is conservative, because it does not reduce the General Plan estimate of 52,900 units by the amount of development that has occurred since that estimate was made (e.g., 6,700 units built between 1994 and 1997; since the background work for the General Plan was prepared before 1994, it is likely that additional units were built between the time that work was completed and 1994).

Estimate of the Geographic Redistribution of Development that Would Be Dislocated by Adoption of a Permanent UGB

The distribution of the dislocated units between infill sites and leapfrog sites may be estimated based on the commute patterns of San Jose workers indicated in the U.S. Census (the most recent comprehensive data source). According to the 1990 Census, approximately 64 percent of workers employed in San Jose lived in San Jose, and the remaining 36 percent lived in other communities.¹ Applying this distribution to the “excess” units identified in the preceding paragraph yields an estimate of 7,100 units that would be jammed onto existing sites within the UGB, leaving 4,000 units to be dispersed to other communities beyond the UGB.

When we evaluated the UGB proposal for you in 1996 (in comments on the Negative Declaration), we assumed that 64 percent of the displaced units would locate on infill sites. That assumption was based on the proportion of workers employed in San Jose who also work in San Jose, as indicated in the 1980 U.S. Census. If we were to maintain that assumption in this case, then 7,100 additional units would have to be accommodated on infill sites.

What we did not recognize that time, however, was that all of the displaced “excess” units would have been occupied by San Jose workers who live in the City; in other words, if any of the units were displaced to leapfrog sites, then the proportion of San Jose workers able to find housing in San Jose would decrease. This perception is important, because it means that (1) the UGB will require greater intensification of development on infill sites than we originally thought in order for San Jose to maintain its jobs/housing balance for people employed in the City and (2) regional impacts of a UGB would be even greater than we originally thought, because – unless all 11,100 households locate on infill sites– it would mean that a greater proportion of San Jose workers will have to commute long distances, adding to regional traffic and air pollution.

(The General Plan document states that Plan Alternative 5, which would have accommodated 58,300 new housing units within the City, would have been acceptable under San Jose’s traffic performance standards (with mitigation) and was recommended by the General Plan Task Force, but that this alternative was rejected by the City Council in favor of the adopted 52,900 unit Plan that was ultimately adopted. Assuming very conservatively that the additional 5,400 units (the difference between 52,900 and 58,300) could be absorbed onto existing sites within the UGB (e.g., through General Plan

¹ Note that the percent of workers employed in San Jose who also live in San Jose declined slightly between 1980 and 1990, from 66.5 percent to 65.8 percent. This decline indicates that San Jose did not provide sufficient housing opportunities to maintain its 1980 jobs/housing balance for workers employed in the City over the decade of the 1980s.

Amendments that modify the development capacity of various sites), then San Jose would still have an expected 5,700 "excess" housing units (64,000 needed to accommodate the new households anticipated by *Projections 98* minus 58,300 accommodated by an amended General Plan consistent with Alternative 5). Of those 5,700 "excess" units, 3,650 would be expected to locate within the City.)

For the potential infill development to be realized – that is, for units dislocated from the edges of an expanding USA actually to be developed on infill sites – two fundamental conditions must be met: (1) the City must have physical capacity to accommodate them and (2) housing consumers must be willing to occupy them at the prices and densities at which they are offered. Neither of these conditions is demonstrated in the DEIR, as discussed on pp. 13-14 of this memo.

Environmental Impacts of Increased Infill Development

If more intensive development on the infill sites *can* be achieved, then it will have predictable environmental impacts. These impacts, discussed below, were not considered or evaluated in the DEIR; instead, the DEIR simply asserted that any environmental effects would be the same as those identified in the General Plan EIR.

The DEIR should have addressed the following impacts of the UGB project:

- **Land Use**

1. **Increased amount of development on infill sites.** The increased amount of development that could seek to locate on infill sites is estimated above at between 7,100 and 11,100 housing units, depending on the proportion of dislocated development that seeks infill (as opposed to leapfrog) sites.
2. **Altered locations of intensified development.** With a UGB in place, some residential sites must be developed at higher densities (unless all development displaced by the project is exported to leapfrog sites) than anticipated by the General Plan. Further, the need for more intensive development may alter the comparative economic feasibility of residential construction among locations. Thus, some sites that would have been too expensive for residential development at lower densities will become feasible at higher densities (because the higher land costs are spread over a greater number of units), and development on them will become possible with a UGB in place. The DEIR should provide some discussion of the effects of a UGB on the distribution of new development within the urban area, which will in turn affect the locations of intensified traffic congestion demand for new public services.
3. **Adverse effect on the City's ability to provide affordable housing and meet its fair share requirement.** This effect will produce physical impacts related to longer commutes for low- and moderate-income households. The DEIR states (p. 155):

In San Jose, most of the housing that is currently considered "affordable" is multi-family residential and older housing stock. *Virtually all of the new housing affordable to households with below median incomes now being built is receiving some form of government subsidy. This is considered unlikely to change as long as the economy remains strong. It is also possible that increased competition for infill housing could cause the cost of such housing to increase.* These are market driven economic issues, however, and are too speculative to warrant further discussion in this EIR.

In fact, this effect is reasonably foreseeable and is not at all speculative. Absorption of the supply of sites for residential development will cause increases in the prices of remaining sites (because, with no timely supply competition, the only penalty for asking higher prices for developable sites is the possibility of getting even more money later). As prices increase, (1) the prices of non-subsidized units increase, putting them further out of reach for low- and moderate-income households, and (2) the amount of subsidy required to bring prices into the affordable range increases as well. As a result, a given amount of public sector money available to subsidize affordable housing loses purchasing power. As a result, the City will be less able to assist low- and moderate-income households in finding housing they can afford, and those households will be forced to seek alternate housing at more distant locations. Thus, the impacts of the UGB will be (1) adverse effects on San Jose's ability to meet its fair share housing requirements and (2) increased regional impacts on traffic, air quality, and other conditions affected by leapfrog development.

This effect was demonstrated in Modesto in the mid-1970s. In an effort to control infrastructure expenditures (before Proposition 13 effectively shifted those costs to the private sector), Modesto adopted a growth policy that opened new areas to growth only as the existing supply of developable sites was fully absorbed. Mundie & Associates staff found that prices of sites designated for single family residential development had doubled within about three years, resulting in a tripling of prices for the identical home.

To claim that the anticipation of price increases for infill housing is speculative, the DEIR must first demonstrate that the supply of sites within the UGB is abundantly adequate to accommodate all new demand projected by ABAG during the planning period, including an ample allowance for new vacant units and adjustments to reflect that (1) less than 100 percent of all designated sites will actually be available for development during the planning period and (2) new development does not always occur at the maximum densities permitted. Only in this situation, where effective supply competition remains strong, is it possible to think that the price of land will not increase substantially.

4. **Increased rate of development on infill sites.** An increase in the rate of development is acknowledged in the DEIR (p. 153: "With incrementally less likelihood for growth to occur outside of the USA with the UGB in place, the time frame for planned infill development might be accelerated, as compared to the time frame for the infill development without the UGB in place."). In dismissing the possibility that timing would have any effect on environmental impacts, the DEIR (p. 154) does not consider that different timing of development will in fact affect the City's ability to provide public services with a physical component (fire protection, parks, schools) on a more rapid schedule.
5. **Conversion of prime agricultural land to non-agricultural use.** A primary reason for new development that would have located in San Jose to locate instead in more remote locations is the desire of housing consumers to occupy single family, detached housing units in conventional subdivisions (in preference to more intensive development arrangements that would be possible within the UGB). The DEIR should (1) estimate how much land would be absorbed by conventional single family development that is dislocated to leapfrog locations assuming that it is built at densities that are typical for those locations and (2) discuss the likelihood that this development would be located on prime agricultural lands, given the presence of such lands in the planning areas affected.

- **Traffic**

The increased amount of residential development, and the altered locations of that development, will alter the traffic conditions that were projected in the General Plan EIR. The traffic analysis must recognize that the geographic distribution of new development within the UGB may be different from the distribution within the current USA without the UGB. Given these inevitable differences brought about by adoption of a permanent UGB, the traffic analysis from the General Plan EIR is not adequate or appropriate. The DEIR should include a relevant traffic analysis.

- **Air Quality**

Increased development associated with the UGB and the resulting increased traffic congestion will increase the amount of air pollution in San Jose. Especially with the reclassification of the Bay Area as an air quality non-attainment area, the DEIR should address the impact of more intensified development within the UGB on local air quality.

- **Noise**

Higher traffic volumes on San Jose roads will create greater noise impacts than would have been expected with adoption of the General Plan. The DEIR uses the noise analysis from the General Plan EIR (in fact, it includes the General Plan noise study as an appendix), and thus does not consider the effects of altered land use and traffic patterns on noise levels in the urban area.

- **Visual and aesthetic resources, and community character**

Because development within the UGB will be more intensive, sites will be more crowded and, probably, buildings will be taller. The visual character of San Jose will change. The DEIR does not address these impacts.

- **Sensitive habitats (e.g., creekbeds and wetlands).**

The need to achieve higher densities within the UGB will encourage development closer to whatever sensitive habitats remain in the City. The DEIR does not provide information about the presence or absence of specific sensitive habitat areas, such as creek- and streambeds, within the proposed UGB, particularly on sites available for residential development (whether vacant or subject to conversion or intensification of use).

The DEIR does note (p. 84) the presence of some areas with potential burrowing owl habitats and (p. 87) some with heritage trees. It does not, however, identify the locations of these habitats and trees relative to potential development sites. Notwithstanding this lack of specific information, the DEIR concludes that adoption of the UGB would have no impacts on sensitive species (p. 86) or ordinance-sized trees (p. 87).

- **Exposure of residents to seismic and geologic risks.**

More intensive development could mean that more households are exposed to soils subject to liquefaction, and that more households occupy units in areas potentially subject to inundation

out to leapfrog sites. The environmental impacts of this leapfrog development (described above, on pp. 12-13) must also be evaluated in the DEIR.

**(In)Effectiveness of Approaches Identified by the City
for Increasing the Supply of Infill Sites for Residential Development
After Adoption of a UGB**

The DEIR identifies (p. 156) a variety of approaches to increasing the supply of sites for housing after adoption of the UGB. The potential effectiveness of these approaches is subject to question, for the reasons discussed below. Because they are subject to question, they raise doubts that a significant amount of intensification (above the 52,900 additional units provided for in the General Plan) can actually be achieved. Approaches are listed below in *italics*; questions follow each approach:

- (a) *Development on land already designated for residential uses at the higher ends of the allowed density ranges.*

Neither the General Plan nor the DEIR provides any information about the density that was assumed for development in each density range, information that is essential to demonstrating that increases above those assumed in the derivation of the 52,900 unit estimate are indeed achievable.

The information presented in the DEIR (although regrettably incomplete) implies that recent development on infill sites has not taken place at the higher end of the allowed density ranges. The General Plan (p. 12) shows 5,340 acres of land designated for single family development and 1,105 acres designated for multi-family development. DEIR (p. 21) shows 3,413 acres of vacant land designated for single family residential development and 940 available for multi-family residential development. Neither document indicates the density category distribution of the vacant land; therefore, it is impossible to know what the average density of development would have to be in each case to achieve an increase of 52,900 units. The DEIR does not explain what happened to 1,927 acres of land that were formerly vacant and designated for single family residential use, nor to 165 acres that were formerly vacant and designated for multi-family use. If these 2,092 acres were developed into the 4,228 housing units built between 1995 and 1997 (according to DOF figures), then the average density of development on this land was 2.02 units per gross acre. Such density would not be described as "at the higher ends of the allowed density ranges" except in very few of the City's zoning categories. (If those zoning categories were the only ones developed during this time interval, then there is no demonstrable market support for any assumption that higher-density development on infill sites is achievable.)

The DEIR does not consider (or, more precisely, does not indicate whether it considers) the fact that designating sites as appropriate for development does not itself assure that the site will indeed be available for development, that development will occur, or that it will be occur at the densities permitted. Typically, not all sites are available for development within the time horizon of a planning document are actually developed; reasons may include owner disinterest, legal entanglements, or other obstacles. On those sites that are developed, site-specific constraints (such as parcel configuration, need to tie into the abutting circulation system, required setbacks, slopes, and wetlands) often result in densities for new development that are less than the theoretical maximum. Neither the DEIR nor the General

Plan indicates any acknowledgment of these conditions, so it is not possible to conclude whether they were taken into account. To add 43,000 housing units on the vacant 4,353 acres of land identified in the DEIR (allowing for 6,600 on Intensification Corridor sites and 3,300 on Conversion Sites to make up the complement of 52,900 units "anticipated" by the General Plan) would require a density of 9.9 units per acre on every acre available, and greater density if availability obstacles or site-specific constraints come to light.

To demonstrate that development at the higher ends of permitted density ranges could actually be achieved, the DEIR should provide information on allowable densities for the acreage available and recent development patterns on lands in those density categories to inform the reader about (1) whether it is reasonable to expect "development at the higher end of the allowed density ranges," given physical constraints and market acceptance, and (2) how much capacity might be gained by concerted efforts to increase the densities achieved. If increasing densities would require relaxation of City development standards (such as setbacks or street widths, for example), then the public policy, safety, and environmental impacts of those changes should be examined before such adjustments are relied upon for additional housing capacity.

- (b) *Approval of General Plan Amendments that allow higher density ranges on property already approved for residential uses.*

While this strategy is theoretically possible, it is hard to understand why – given the results of the General Plan traffic analysis – such amendments would not cause traffic to violate the City's LOS standards after only a limited number of increases (i.e., increasing the number of permitted units to 58,300, consistent with General Plan Alternative 5). The DEIR provides no analysis that indicates traffic congestion problems identified in the General Plan EIR have been solved. It provides no analysis of the potential locations of new/intensified development, and so does not demonstrate that the City has adequate infrastructure capacity or location-specific public facilities (e.g., parks and schools) to make approval of density-increasing General Plan amendments feasible.

- (c) *Approval of more development, and/or development at higher densities, in the Intensification Corridors.*

While this strategy is also theoretically possible, the same problem (likely violation of the City's LOS standards) would arise. General Plan alternatives that were rejected would have permitted between 6,650 and 17,000 new units in the Intensification Corridors (compared to 6,600 permitted by the General Plan) in part because they would have violated the traffic standards. The same concerns as noted above apply here: the DEIR does not identify where such additional development could occur, and contains no discussion of traffic conditions or the adequacy of infrastructure capacity and public facilities that serve those locations.

- (d) *Preparation of a Specific Plan for development in the South Almaden Valley prior to, or concurrent with, approval during a General Plan Annual Review of an USA revision to include South Almaden Valley in the USA.*

This strategy would have environmental impacts similar to those associated with allowing new development adjacent to the USA/UGB line: it would allow the expansion of urban

development onto lands that are currently in open space or agriculture, and would require the expansion of urban infrastructure to serve those lands. The DEIR does not demonstrate that this approach is environmentally superior to one that allows incremental expansions of the urban area adjacent to existing development that abuts the USA boundary.

The proposed amendments to the General Plan included in the project the DEIR is supposed to address state (unnumbered page of Appendix A under the heading "South Almaden Valley Urban Reserve (SAVUR)": "The boundary of this Urban Reserve . . . and the portion of the Greenline/Urban Growth Boundary coterminous with it may be expanded as part of the specific plan process." (Underline indicates the amendment to the General Plan.) *This potential for an expanded South Almaden planning area was not addressed in the General Plan EIR and is not even mentioned in the DEIR except in this appendix location, even though it is included in the proposed project.* While the amendment goes on to specify that "the limit of 2,000 dwelling units . . . may not be increased in this process" – thus eliminating the SAVUR as a potential intensification site – the potential for expansion of the SAVUR would have impacts on the potential for agricultural land conversion, which is not addressed in the DEIR.

- (e) *Approval of a General Plan Amendment during any annual review to allow planning for urban densities on properties in the Coyote Valley Urban Reserve and preparation of a Specific Plan after or concurrent with inclusion of the Urban Reserve in the USA.*

The General Plan EIR explicitly excluded Coyote Valley, because the General Plan states that this area is not expected to develop during the time frame of the Plan. Amendment of the General Plan to permit planning for development of Coyote Valley and inclusion of Coyote Valley in the USA would require full CEQA review. Therefore, the General Plan EIR cannot be cited as providing CEQA review of a Greenline/UGB alternative that would designate the Coyote Valley Urban Reserve for development.

The environmental impacts of opening the Coyote Valley Urban Reserve to new development would be similar to those of allowing or expansion into the South Almaden Urban Reserve, and potentially greater than those of new development adjacent to the USA/UGB line. Because the Coyote Valley Urban Reserve is farther from the core of San Jose than the South Almaden area, development there could have greater cost implications for the provision of non-capital public services (such as fire and police protection) than would development in the South Almaden Urban Reserve or other closer-in areas that could be adjacent to the USA/UGB line.

Both the South Almaden and Coyote Valley Urban Reserves are subject to specific "trigger" mechanisms; that is, criteria that signal their candidacy for development consideration. These criteria are (pp. 151 and 153 of the General Plan):

- (1) Issuance of building permits for employment-related development in the North Coyote Valley Campus Industrial Area for sufficient space to accommodate 5,000 new jobs (in addition to the 2,000 jobs that existed at the time the General Plan was adopted).
- (2) A finding that the "City's fiscal condition is stable, predictable, and adequate in the long term." This finding is to be based on three conditions:

- A five-year economic forecast that projects a balanced budget or budget surplus for each of the forecast years.
- Provision of City services at or exceeding the level delivered in 1993, throughout the City. The Plan identifies performance standards for the measurement of service levels.
- "Reasonable certainty that the City's basic fiscal relationship with the state or other levels of government will not be significantly altered during the period of the five year economic forecast."

The first criterion, related to job development in the North Coyote Valley Campus Industrial Area, is entirely unrelated to whether there is a single additional site available for housing development in the City. Conceivably, then, even if every designated housing site in San Jose were occupied by residential development at the maximum density permitted, no development would be possible in the Urban Reserves unless the North Coyote Industrial Area had gained 5,000 jobs in addition to those existing at the time the General Plan was adopted.

The second criterion, related to fiscal health, is unlikely ever to be achieved without massive reform of local government finance in California. As noted earlier in this letter, the intensification of residential development that is anticipated as a result of the UGB project is also likely to assure that 1993 levels of service are never regained. Especially because this criterion is unlikely to be met, to hold out development in the urban reserves as a strategy for increasing the supply of land for residential development is misleading and disingenuous.

- (f) *Initiation of a comprehensive General Plan update to: (1) evaluate the need to change the Urban Growth Boundary and (2) consider redesignation of land outside the UGB for urban uses, including residential development, before considering an USA expansion and a General Plan Amendment to increase densities.*

The City could initiate such an update at any time. This approach, however, is a more formidable undertaking than expansion of the USA into a given area via an individual General Plan Amendment. It effectively raises the barrier to realignment of the area within which development is permitted.

- (g) *Approval of a General Plan Amendment during any annual review which allows non-residential lands within the USA to be converted to residential uses, if approved by LAFCo.*

Without explanation, it is not clear why such an amendment would be subject to LAFCo approval. Nevertheless, this approach does not seem significantly different from actions (a), (b), or (c), all of which would allow more development within the urban area and all of which would – based on the previous analysis for the General Plan EIR – cause traffic to exceed the City's LOS standards.

This (foregoing) discussion makes it clear that the approaches identified by the City are not likely to yield any meaningful increase in the City's supply of developable residential land if the UGB proposal is adopted. If that is the case, the result would be the dispersion of as much as 100 percent of new housing development in excess of 52,900 units (from the time the General Plan was adopted) beyond

the City's SOI, with the corresponding regional impacts on traffic, air quality, conversion of prime agricultural land, and energy consumption described above.

4. The DEIR classifies the impacts associated with leapfrog development as secondary impacts, and inappropriately dismisses them as beyond the scope of this EIR or "speculative."

Classification of Impacts as Secondary Impacts is Inappropriate

City records document that the USA has shifted outward in the past in response to requests to General Plan Amendments during the City's annual General Plan review, and that the expansions have provided sites for residential development. Without the possibility of further outward shifts, the housing that would have been located on such sites in response to demand for residential development in San Jose must instead be developed elsewhere.

To characterize the impacts identified in the Secondary Impacts section of the DEIR – that is, infill development and increased demand for development outside San Jose's sphere of influence – as *secondary* impacts is misleading because it implicitly denies that the foreseeable result of establishing an immovable Urban Growth Boundary (UGB) is to displace development that would have occurred at the edges of an expanded urban area (as defined by the City's movable USA) to other locations. By stating that adoption of the UGB will reinforce City policies encouraging infill development (p. 153), the DEIR acknowledges relocation of development potential as a primary, direct, intended, and foreseeable impact of the proposed project.

Dismissal of Dislocation Impacts as "Beyond Scope" or "Speculative" is Inappropriate

The DEIR makes a series of arguments (pp. 155-156) to dismiss the possibility that adoption of the UGB will cause leapfrog development. It concludes the discussion of leapfrog development by stating (p. 157):

"In the near term, there is a plentiful supply of vacant land designated for residential development in San Jose's Sphere of Influence. In the long term, any discussion of the impacts of "running out" of residentially planned land is too speculative for further discussion."

"Development in other cities and regions outside of San Jose and Santa Clara County lies outside of the jurisdiction and control of the City and County, respectively. . . . If other outlying jurisdictions provide housing that is more financially attractive to employees within San Jose and Santa Clara County, that is a decision which is beyond San Jose's and Santa Clara County's control."

This conclusion is inappropriate for the DEIR, since (1) both the City's projections and the more recent ABAG projections (*Projections 98*) anticipate demand for housing within the time frame of the General Plan well in excess of the City's ability to accommodate it, (2) much of the currently undeveloped 60,000 acres in the Sphere of Influence will be off-limits to development if a permanent UGB is adopted, and (3) there is no time limit on the application of the UGB.

By failing to acknowledge the possibility that housing will be displaced to leapfrog sites and, if it is, denying that the City and County bear any responsibility for such displacement (that is, that the displacement is a foreseeable result of the adoption of a permanent UGB), the City (and County, as a responsible agency) avoids accounting for the regional environmental impacts of such a development pattern. The DEIR's failure to grapple with potential regional impacts calls into question its adequacy to fulfill the CEQA requirement for any action in support of the San Jose UGB that will be taken by the County of Santa Clara.

Four arguments are made to refute the potential for leapfrog development as an impact of the UGB. These arguments are discussed, in turn, below:

(a) The concept of leapfrog development has been too narrowly defined in the DEIR.

The DEIR (p. 155) narrowly defines the concept of leapfrog development as a pattern of development that skips over close-in parcels to result in a checkerboard pattern of urban use "all within the same region or jurisdiction." The DEIR then states that, since development would be prohibited in the greenbelt, leapfrog development cannot occur within the unincorporated portion of Santa Clara County. This narrow definition ignores the fact that new development will leap beyond San Jose's sphere of influence to distant communities such as Morgan Hill and Gilroy, which are both within Santa Clara County. If the workers who end up living in those southerly communities commute to work in San Jose or the employment centers to the north, then their housing locations are still at "leapfrog" locations; more importantly, they are having even greater impacts on traffic congestion and air pollution than they would if they lived closer to work on sites within the San Jose Greenbelt.

The DEIR acknowledges (discussion on p. 156) the validity of the argument that some households will be forced to live in communities that are even beyond Santa Clara County. That issue is addressed primarily below. The point here is that, by posing its narrow definition of leapfrog development, the DEIR tries to reinforce its assertion that the conclusion that new development will be dislocated to a dispersed set of sites beyond the San Jose SOI is speculative, when in reality it is a direct impact of the proposed project.

(b) The DEIR assigns responsibility for leapfrog development to housing consumers, ignoring the City's influence on the supply of market-acceptable housing.

The DEIR asserts (p. 156) that the reason for long-distance commutes to work destinations in Santa Clara County is *not* because there is a shortage of housing in San Jose, but because of "the willingness of commuters to drive long distances in order to obtain 'affordable' housing of a particular type (such as single family detached housing on larger lots, for example)." This paragraph implicitly concedes that the unavailability of housing *that responds to the desires of housing consumers* results in longer commutes, and explicitly cites as an example the very type of housing that would be discouraged by the proposed adoption of a permanent UGB.

Ironically, it is this dynamic – that employees will make a housing choice based on their willingness to make a longer commute – that has resulted in San Jose's being "housing rich" – a condition that the DEIR uses to justify limitations on new housing development. Workers employed in Silicon Valley, north of San Jose, have for years purchased or rented housing in San Jose because housing closer to their places of work was more expensive than comparable housing in San Jose. As a result, San Jose has served as a bedroom community for the employment centers to the north, precisely because people

who worked north of San Jose were *willing to make a longer commute* in order to occupy housing suited to their needs. With the adoption of a permanent UGB, not only will San Jose workers have increasing difficulty finding suitable, affordable housing in San Jose, but the City will also cease to provide affordable housing for the employment centers to the north, where housing is less affordable. As a result, workers employed at Santa Clara County business centers will have to commute farther and farther from the south and east, increasing regional impacts on all environmental conditions affected by commute trips. At a minimum, these impacts will be increased traffic and air pollution; if they are great enough, they will diminish the appeal of Santa Clara County as a place to work, and the County's economy could be threatened.

(c) The DEIR understates future housing demand and the resulting likely magnitude of future leapfrog development.

The DEIR says that ABAG projections "reflect a demand for 51,360 dwelling units" during "roughly" the time period "after 1995 and before sometime between 2010 and 2020." In fact, this statement misrepresents the ABAG projections, as discussed in detail on p. 6 of this memo: the ABAG projection is for 51,360 new households between 1995 and 2010, including 62,584 new households between 1995 and 2020, which is the horizon year of the General Plan. More dwelling units than households are required to accommodate this growth with a vacancy factor that will allow smooth operation of the housing market and avoid the types of price increases that will drive housing consumers to seek homes in leapfrog locations.

At least as important as a vacancy adjustment for housing units is a vacancy allowance for land designated for residential development. A General Plan that designates barely sufficient (or, in this case, insufficient) sites for new housing effectively gives the owners of the sites that *are* so designated a monopoly position in the market: as time passes, the number of designated sites dwindles, and so does competition in the marketplace. The owners of the remaining sites can increase the prices asked for those sites as much as they want, knowing that anyone who wants to develop housing in San Jose will have to come to them. As the prices of sites within San Jose become less competitive with the prices of sites in other communities, however, this condition also contributes to leapfrog development.

(d) The DEIR disclaims City responsibility for housing supply limitations that displace demand to other cities.

Finally, the DEIR argues (p. 157) that development in other cities and counties beyond the San Jose SOI is beyond the control of San Jose, and the decision of any jurisdiction to provide opportunities for "housing that is more financially attractive to employees within San Jose and Santa Clara County" is beyond the control of the City of San Jose. This statement is only partly true: while San Jose cannot control the decisions of other jurisdictions, it *can* control its own (as is implicitly acknowledged in the statement, on p. 157, that begins, "If other jurisdictions provide housing that is more financially acceptable . . .").

A decision to plan for fewer housing units than the number of households expected to seek housing in San Jose through the end of the planning period is effectively a decision to contribute to the increased price of housing, which will drive housing consumers to live in more remote locations (with the aforementioned resulting regional impacts on traffic, air quality, energy, and agricultural land conversion). Such a decision is consistent with the City's stated policy of encouraging employment growth over residential development (to even out its jobs/housing balance), because by limiting the supply of

housing sites it supports increases in the price of housing, and therefore discourages households in a certain income range from living in San Jose. Implementing this policy through imposition of the UGB cannot, however, be justified based on environmental superiority to a course that would allow closer-in development of housing types that are demanded by housing consumers.

5. The DEIR does not compare conditions with the proposed project to existing environmental conditions.

CEQA requires discussion of the environmental setting of a proposed project and provides guidance as to how that discussion is to be framed. Section 15125 of the CEQA Guidelines states, in part:

- (c) Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions as well as the potential future conditions discussed in the plan.

The CEQA guidelines go on to describe the case (*Environmental Information and Planning Council v. County of El Dorado*) which held that "in comparing a new county general plan that would allow less growth than the old plan, the EIR had to address the existing level of actual physical development in the county as a base line for comparison. The two plans could not be compared with each other without showing how they would relate to the existing level of development."

This DEIR consistently fails to describe existing conditions. Further, it fails to compare the conditions *with* the project either to the outdated "existing conditions" that it does describe or to current existing conditions.

The DEIR relies substantially on the General Plan EIR (Revised Draft published April 8, 1994) for information about existing environmental conditions; that is, the Environmental Setting. In fact, most of the information in the Environmental Setting sections of the DEIR is copied verbatim from the earlier document. This information is out of date with respect to regional growth projections, recent land use change, and traffic conditions. Because it fails to provide this information, the DEIR cannot compare future conditions with the project (a permanent UGB) to existing conditions in order to draw reasonable conclusions about the environmental impacts of the project.

To meet the requirements of CEQA, the DEIR must compare the effects of growth likely to occur subject to the UGB regulations to the conditions described by the most recent information available and anticipated by the most recent projections. For example:

- **To address land use impacts, the DEIR must describe current land use conditions and projected demand for land use change.** By relying substantially on the General Plan EIR for this discussion, the DEIR fails to account for changes that have occurred during the past four years. These changes affect how much new development the City should anticipate and the City's ability to accommodate new development. For example:
 1. **The DEIR must update information about the amount of new development the City can physically accommodate.** The General Plan was intended to accommodate 52,900 new housing units. Since 1994, when the Plan was adopted, San Jose has gained 6,700 housing units (California Department of Finance estimates). Therefore, unless amendments to the

General Plan have provided additional potential for housing development, fewer additional units can be accommodated by the City than was the case when the General Plan was adopted. Because the DEIR provides no information to the contrary, it is reasonable to assume that only 46,200 additional units can be accommodated (52,900-6,700).

- **Change in the Total Supply of Residential Land.** The DEIR acknowledges a change of 17 square miles in the area encompassed by the City's USA (139 square miles vs. 122 square miles noted in the General Plan EIR) and in the number of acres of vacant land designated for single family and multi-family residential development (3,413 acres for single family and 940 acres for multi-family, vs. 5,340 acres for single family and 1,105 acres for multi-family noted in the General Plan, p. 14).

The DEIR does not, however, (1) indicate the land use designations of the 17 square miles of additional USA land area or (2) interpret that change in terms of the amount of land available for development at various densities. As a result, the DEIR presents an incomplete and out-of-date picture of the potential for additional residential development in San Jose.

- **Change in the Availability of Sites on Land Designated for Residential Use.** The General Plan provided for development of 35,000 housing units on vacant land designated for residential development, and an additional 6,000 units on non-vacant land designated for residential use. How much of that land has developed, and with how many units? In light of the development that has occurred since the General Plan was adopted, how many more units can be placed on those lands?
 - **Change in the Availability of Residential Land in the Intensification Corridors.** The DEIR retains the estimate from the General Plan and the General Plan EIR that the Intensification Corridors will accommodate 6,600 new housing units. It does not provide information about whether any of the sites in those corridors have been developed and, if they have, how the remaining capacity has changed. This information would update the estimate of new units that could still be accommodated within the Intensification Corridors and would provide a foundation for the conclusion that housing on these sites is marketable to housing consumers.
 - **Current Developability Status of Conversion Sites.** In the General Plan, "Conversion Sites" (developed land to be converted from nonresidential to residential use) are assumed to accommodate 3,300 new housing units. Although the DEIR details much of its discussion by referring specifically to potential development in Intensification Corridors and Urban Reserves (the other two major classes of non-vacant sites identified in the General Plan EIR for infill development), it does not provide any information about the remaining capacity of the Conversion Sites nor about whether any residential development has occurred on those sites since the General Plan was adopted. This information would update the estimate of new units that could still be accommodated on the Conversion Sites and would provide a foundation for the conclusion that housing on these sites is marketable to housing consumers.
2. **The DEIR must update information about the amount of new development the City should expect.** When the General Plan was adopted, the most recent forecast of employment, population, and households was *Projections 92* (see discussion above, on p. 5).

By the time the DEIR was adopted, ABAG had published *Projections 98*, which extends through the year 2020. As noted on p. 5 of this memo, *Projections 98* anticipates an increase of nearly 79,800 households in San Jose (which would require 83,500 housing units, including the five percent vacancy factor) between 1990 and 2020. (The corresponding forecast for the period between 1995 and 2020 is for 60,980 households and 64,000 housing units. These figures are used throughout this memo to characterize the impacts of the UGB project. The DEIR should have used the *Projections 98* forecast to determine whether the City provides sufficient physical capacity for development within the proposed UGB. This determination would inform valid conclusions about the land use impacts of the UGB project.

3. **The DEIR must provide evidence of the marketability of intensified development within the USA.** Relevant evidence would include information about the density of recent residential development projects. If the City cannot demonstrate that housing of the density that would be required to accommodate projected growth is marketable, then it cannot contend that development displaced from the expanding edges of the USA would instead located on sites within the UGB.
4. **The DEIR must estimate *where* within the UGB the new development would occur, and how much would occur in each location, so that the analysis can evaluate future conditions (e.g., buildout of the General Plan with the UGB *compared to existing conditions*.)**
5. **The DEIR must estimate how much of the displaced development will relocate to leapfrog sites, and the general directions of the locations of that development (e.g., via which transportation routes).** This information is necessary to provide a foundation for the adequate assessment of regional environmental impacts (e.g., traffic conditions and air quality) resulting from implementation of this project.
6. **The DEIR must describe existing traffic conditions and traffic conditions in the buildout condition, and compare them to future conditions without the UGB project.**

The DEIR addresses a project that the City states is similar to the General Plan: the DEIR states in its Introductory Note to Chapter II (p. 21), "The analyses in this section are all based on the assumption described in Section I, that the proposed UGB simply reinforces General Plan policies which limit development outside of the USA. Therefore, the amount of planned development would not change with adoption of the UGB." Even if this assumption is true, the adoption of a Greenline/UGB is a separate project, with CEQA impacts that cannot be directly deduced from an EIR on a different project, particularly in view of the failure to update so many of the conditions critical to the impact evaluation.

By omitting *any* current traffic information, the DEIR makes its conclusion of "no impact" pure speculation, and fails to demonstrate whether the proposed project would result in any change *either* from conditions with the existing General Plan *or* from existing conditions, and whether any change from existing conditions would be better or worse than the change from conditions with the current General Plan.

The DEIR should provide information as comprehensive as that provided in the General Plan EIR, with a view toward providing the basis for a comprehensive update of the conclusions about environmental impact that were reached in the earlier document. To ignore or gloss

over the changes that have occurred since then is to deny that the passage of time has brought any changes to the City of San Jose.

- **Existing conditions:** Since the General Plan was adopted, new development has occurred in San Jose, bringing with it additional traffic. The DEIR does not provide information about the changes in traffic volumes and intersection levels of service that have taken place as a result of this development. Instead, the DEIR relies on three maps (Figures 6A, 6B, and 6C) from the General Plan EIR, with no supporting text (and with no year identification of the date of the maps), to describe existing traffic conditions.

City staff have previously commented that San Jose's traffic system is near capacity (Sheppard Mullin's brief in support of its argument to require an EIR on the Greenline/UGB project cites statements made by planning staff in 1995 and 1996 about conditions on the City's transportation system.) This information is neither brought forward nor corrected in the DEIR.

- **Future conditions:** More intensive development within the USA will cause increased use of the roadways, which will increase traffic congestion beyond the levels anticipated in the General Plan EIR. The DEIR does not evaluate the potential impacts of intensified residential development on intersection levels of service, screenline volume-to-capacity ratios, or other pertinent traffic conditions, as did the General Plan EIR, nor does it identify the type of mitigation measures likely to be required to accommodate the increased traffic. To provide a foundation for this evaluation, the DEIR should build on the revised description of existing conditions to provide a baseline "future conditions without the project" scenario. Absent this scenario, the DEIR cannot effectively assess the impacts of the proposed UGB project on traffic congestion, either within the City or in the San Jose region.

The DEIR does not describe future traffic conditions adequately not only because it fails to recognize the traffic associated with increases in development within the USA, but also because it describes traffic conditions only through the year 2010. Because the General Plan horizon is the year 2020, the DEIR should analyze projected conditions in that year; because ABAG's *Projections 98* provide a forecast of population, employment, and households through the year 2020, the DEIR cannot (as the General Plan EIR did) evade the responsibility for addressing the entire planning period on the grounds that no regionally-consistent projections are available.

To assert (DEIR, p. 153) that the amount of development within the USA would not be greater, but may be more rapid, with a UGB compared to the current condition does not dispose of the need to evaluate impacts on traffic. A proper traffic analysis compares future conditions with the proposed project to future ("baseline") conditions without the project, and recognizes "background" increases in traffic that will occur regardless of the project (e.g., commuters traveling from places of residence south of San Jose to places of work in or north of San Jose). Therefore, more rapid development within the UGB would place a greater amount of traffic on the system sooner than development without a UGB, and the impacts would be different.

Absent this information, it is not possible to characterize the impacts of the proposed project on land use in San Jose, or to estimate the percentage of excess housing demand that could be accommodated

within the UGB during the planning period, or to project the impacts of the proposed UGB on local or regional traffic conditions.

6. The DEIR does not provide current information about existing conditions.

By ignoring the CEQA requirement to assess impacts by comparing future conditions with the project to existing conditions, the DEIR evades the need to provide up-to-date information about existing conditions. Rather than provide current information, the DEIR simply copies material from the General Plan EIR.

Missing information about land use conditions, expectations about future growth, market acceptability of residential development at various densities, and traffic conditions is detailed in the previous section of this memo.

7. The DEIR does not adequately address growth-inducing impacts.

The entire assessment of growth inducing impacts of the proposed UGB project (DEIR p. 176) is:

The adoption of the UGB will reinforce existing policies in the adopted City and County General Plans that limit allowed development in the greenbelt. It will not allow any more development inside the USA than is already allowed by the City's General Plan. It will not create any precedent that will encourage or enable growth outside existing urban boundaries.

Therefore, it is concluded that the proposed project will not result in any growth-inducing impacts.

This assessment is inappropriate and inadequate. CEQA construes growth inducement as a local phenomenon, as indicated by the fact that extension of infrastructure to a new area is by definition growth inducing because it allows growth to occur in that area (Appendix G of the CEQA Guidelines). This understanding of the phenomenon of growth inducement means that the concept is not limited to attracting growth from beyond the region, but instead applies to local relocations of growth that was already expected in the region.

Residential growth not accommodated on sites identified by the General Plan (adequate for 52,900 new units starting in 1994) must go somewhere. If it is not accommodated by expansions of the USA, as has been the historical practice in San Jose, it must – as discussed earlier in this memo – be dislocated either onto (1) infill sites within the UGB or (2) leapfrog sites beyond the San Jose SOI. *In either case*, this dislocation represents growth inducement in the area where the dislocated growth ends up.

To satisfy the requirements of CEQA, the DEIR should have considered the following growth-inducing impacts of the proposed project:

- Inducement of growth in infill areas via dislocation of development from the expanding edges of the USA to sites within the UGB.

- Inducement of growth in surrounding communities beyond the San Jose SOI via dislocation of development from the expanding edges of the USA to leapfrog sites in those communities.
- Likelihood that public services levels will never satisfy the "trigger" requirements for "significant" modifications to the Greenline/UGB. These trigger requirements are the same as those required to initiate planning in the Urban Reserves, including that urban services to existing residents and businesses are maintained at 1993 levels. Both because of the general inadequacy of public revenue resources in California and because the City fails to recognize the inevitable increased demands for location-specific public services and facilities in infill areas (related to intensification of residential development on sites within the UGB), it is probable that 1993 service levels will never be regained. If they are not, the City will have justification never to expand the UGB, and the resulting displacement of future development will induce even more growth either on infill sites or in the surrounding communities (or both).

8. The DEIR definition and analysis of alternatives is inadequate.

The Alternatives Do Not Consider Any Meaningful Choices Without a Permanent UGB

The DEIR addresses five alternatives to the proposed project: (1) no project, with two variations (no new development and no change in the General Plan), (2) UGB encompassing a smaller area, (3) UGB encompassing a larger area, (4) UGB with no possibility of minor modifications, and (5) use of easements, instead of a UGB, to preclude development within the greenbelt.

Of these five alternatives, the "no project" alternative is required by law, and is acknowledged not to be consistent with project objectives.

The "easements" alternative is the only one that provides an alternative to the establishment of a UGB, but it is summarily dismissed because funding to acquire easements has not been identified. (In fact, after stating on p. 170 that no source of funding is identified, the DEIR goes on to state, also on p. 170, that "the financing method is not . . . an environmental issue and does not need to be addressed in this EIR." It thus defines this alternative away.) The lack of funding to buy large areas of land needed to create a permanent greenbelt indeed leads to the inevitable conclusion that the easements alternative is not a meaningful alternative, and should never have been included in the DEIR.

The DEIR does not identify or evaluate any workable alternative that could achieve the project's objectives of securing a firm limit to the San Jose urbanized area that do not include a permanent UGB as proposed by the City. Possibilities that have been proposed in the past, including by Sheppard Mullin, include, for example, granting of development rights *in exchange for* open space dedications that establish a firm greenline (which would be unalterable in the future) or a system of transferable development rights (either within or between parcels) to eliminate the potential for development in the greenbelt and granting of density bonuses in exchange for protecting natural resources in outlying areas. The DEIR goes to great lengths to dismiss the first of these proposals (as discussed in detail below) as inconsistent with project objectives and environmentally inferior to the proposed project. Even if this dismissal were appropriate, it does not relieve the City's responsibility to consider in good faith a range of alternatives that it believes could achieve the stated project objectives using planning and policy tools other than an Urban Growth Boundary.

Rejection of SMRH's "Limited Development" Alternative is Inappropriate

The DEIR specifically rejects SMRH's "limited development" alternative. This alternative would allow for some development on parcels adjacent to the USA in exchange for permanent dedication of lands beyond those developed portions, and would thus provide a permanent greenbelt that is not subject to change as a result of changes in public policy.

The DEIR provides detailed reasons why that alternative would be inconsistent with four of the project objectives. The arguments against this alternative are neither consistent nor sufficient to discard the alternative with no analysis of its potential impacts. Below, each stated City objective is shown in italics, followed by a brief summary of the City's argument and then our evaluation of the City's argument.

- *Provide a greater degree of certainty for residents and property owners regarding the long-term expectations for urban development. The DEIR argues that if development outside the USA can be approved on a case-by-case basis, there is no long-term certainty.*

The problem with this argument is that public policy (i.e., adoption of a UGB by the City Council) is not as permanent a control on land use as dedication of land or development rights that restrict or eliminate the potential for development. Although the UGB is defined as a permanent boundary and major modifications to the UGB as proposed are very unlikely to occur (for reasons cited above), they are ultimately possible. In contrast, land on which development rights have been legally forfeited can never be converted to urban use. Therefore, the "limited development" alternative would actually provide more certainty in the long run than the imposition of a UGB, and would not be inferior to the proposed project in terms of certainty.

- *Promote fiscally and environmentally sustainable development, particularly "infill" development, in locations where the City can most efficiently provide urban services.*

The DEIR notes that infrastructure extensions place a burden on the entire City because they increase the size of the system that the City must maintain; also, it notes (presumably to cover non-infrastructure-based services) that services are provided from a central node. It also states that the extension of roads beyond the urban fringe can create additional traffic congestion and air pollution in the neighborhoods where they connect.

Problems with this argument are:

- It is not obvious that development in the Urban Reserves would be fiscally and environmentally superior to limited development contiguous with or near the USA in the area designated as open space under the UGB proposal. Both the South Almaden Valley Urban Reserve and the Coyote Valley Urban Reserve are situated similarly to other lands beyond the proposed UGB. The Coyote Valley area – which is not even anticipated for development during the time horizon of the 2020 General Plan – is farther from the City's core than are other lands adjacent to the proposed UGB. If and when the Urban Reserves are opened up for development, infrastructure extensions will be required. At that time, there is no guarantee that development will occur on lands contiguous with or near the edge of pre-existing urban development; it is just as likely to occur on non-contiguous sites.

- ◻ The DEIR asserts that, by prohibiting development in the greenbelt, the UGB will encourage infill development within the UGB. The DEIR acknowledges that infill development may occur at a more rapid rate if the UGB is established, but does not evaluate the local environmental (and fiscal) impacts of that more rapid development (e.g., on traffic, air quality, and public service infrastructure).

The DEIR ignores the fact that some development will be displaced to infill locations and some will be displaced to more remote locations, beyond the greenbelt. Therefore, it does not discuss either the local impacts of infill development (identified on pp. 8-12 of this memo) or the regional impacts of such leapfrog development (identified on pp. 12-13 of this memo).

Because neither class of impacts (local or regional) has been described, the question of which impacts – regional (under the displacement scenario) or neighborhood (under either the infill scenario or the City's contiguous development at the urban fringe scenario) – would be more severe has not been addressed.

- *Preserving surrounding hillsides, wetlands, and agricultural and other open space lands as a legacy for future residents and maintain the City's reputation as an attractive place to live and work.*

The DEIR states that allowing development in the Greenbelt "would, by definition, allow more development than would be allowed by the existing USA in combination with the proposed UGB in the hillsides, wetlands, agricultural areas, and other open space lands outside the USA" and, therefore, would not preserve them for the future.

It is likely that adoption of the UGB, as proposed, would indeed limit development in the open space areas of the Greenbelt to less than would be possible in the absence of the UGB. This argument, however, ignores the protections for hillsides and wetlands that are already in place, and which would guide development to the non-environmentally-sensitive areas of the proposed Greenbelt. It also ignores the fact that the "limited development" alternative would *permanently* preserve hillsides, wetlands, and other open spaces by requiring legal dedication of the land or the development rights in return for the ability to develop elsewhere, and therefore would be superior in this regard.

Past City policies governing development in the hills – e.g., Silver Creek – have directed that development to areas that could not be seen from roadways outside the development area, and thus have assured that views of the hills were not altered by the appearance of development. Presumably, this strategy has been effective not only in maintaining San Jose's reputation as an attractive place to live and work, but also in providing additional attractive housing opportunities in the San Jose area to a population group that otherwise would have had to commute from a greater distance to workplaces in San Jose. The suggested "limited development" alternative includes this strategy.

- *Protect public health and safety by preventing urban development in areas subject to natural hazards.*

The DEIR identifies geotechnical problems in the east foothills, "which comprise most of the non-urban area of the City's sphere of influence."

These problems are addressed by existing City policy and the ability to identify impacts and mitigation measures in project-specific environmental documents. Therefore, no additional public safety benefit is conferred by a UGB, and adoption of a permanent UGB to address these types of problems is redundant.

Other development has previously been approved and carried out in the east foothills (again, Silver Creek is an example). The DEIR does not indicate whether geologic conditions in those areas are significantly different from those in the lands relegated to the greenbelt (and we suspect that they are not).

Based on the foregoing discussion, it is not reasonable to conclude that the "limited development" alternative is inconsistent with project objectives, nor that is necessarily environmentally inferior. In fact, based on this discussion, this alternative could be environmentally superior to the proposed project or the alternatives that are considered in the DEIR in that it would (1) guarantee a permanent greenline as a result of development rights dedications and (2) reduce the potential for leapfrog development that is not accommodated within the USA, and therefore reduce the regional impacts of that development on traffic, air quality, and prime agricultural land.

The Alternatives That Are Discussed in the DEIR Are Not Adequately Defined, and Therefore Do Not Meet the Requirements of CEQA

The DEIR identifies five alternatives to be discussed. Most of these alternatives are not well defined: the DEIR presents no quantification of the different characteristics or effects (e.g., amount of development permitted, potential locations of development) associated with each.

This absence of quantification is a marked departure from previous EIRs prepared by the City of San Jose. For example, the EIR on the General Plan contains text and tables that compare the number of housing units that could be built (Table 28, p. 250) and the traffic conditions (corridor impacts and screenline conditions (Tables 29 and 30, pp. 253 and 254) in each of the five alternatives. The Greenline/UGB DEIR, in contrast, describes alternatives only qualitatively, with the single exception of identifying additional housing development capacity that would be available in Alternative C (expanded UGB).

It may reasonably be concluded, based on the lack of quantification, that the other alternatives are functionally no different from the proposed project in that they do not alter the amounts of development that could occur or the locations and impacts of that development. Therefore, these alternatives do not satisfy the requirements of CEQA.

Discussion of Environmental Impacts of Alternatives is Inadequate and Inconsistent

Lacking clear definitions of what the various alternatives would accomplish and how they differ in their physical effects from one another, the DEIR cannot provide adequate evaluations of their environmental impacts.

(a) No Project Alternatives

(1) No Development Scenario

Evaluation of this alternative is required by CEQA, even though it is not a meaningful alternative to the proposed UGB project.

The DEIR (pp. 162-163) states that the existing setting would remain as it is currently and all impacts associated with development of the City's General Plan would be avoided. It dismisses this alternative because it would not be consistent with the project objectives or the General Plan objectives.

An adequate evaluation of this alternative would recognize that a no development scenario would dislocate all new residential development that would have occurred in San Jose to other communities and unincorporated areas within the commute-shed of the Santa Clara County employment centers, including San Jose. Even (perhaps *especially*) if no new nonresidential development were permitted within the City of San Jose, continued employment growth would be expected in other South Bay communities. While San Jose is not legally responsible for housing people who work in other cities, permitting no new development at all would assure that people working in the South Bay, including San Jose, who would have sought housing in San Jose would have to live farther away. Their more lengthy commutes would increase the impacts of South Bay growth on regional traffic and air quality.

(2) Development Under Existing General Plan Policies

The discussion of this alternative (p. 163) states that the primary difference between the proposed UGB and the existing General Plan is that the proposal provides greater certainty about the location of the Greenbelt boundary. Statements in support of this argument assert, in effect, that City decision-makers cannot be relied upon to consider development proposals that would adjust the USA in light of the City's objectives of protecting hillsides, wetlands, and agricultural lands and encouraging infill development. For example, the DEIR states (p. 163), "Due to the annual possibility of future General Plan amendments in the proposed UGB area, this alternative *would not meet project objectives*" and "The existing General Plans [sic] would not, therefore, as rigorously and consistently promote infill development or development at locations where urban services can be most efficiently provided; nor do they ensure as thorough an analysis of proposals for urban development in areas subject to natural hazards."

Those statements are flatly inconsistent with the assertion in the same paragraph (DEIR p. 163) that "the physical impacts of implementing the City's General Plan without a UGB will be the same as the physical impacts of implementing the General Plan with the UGB in place." They make the point that, absent the establishment of a permanent UGB, growth needed to accommodate the demand for housing in San Jose would indeed continue to be built on the edges of the an expanding USA. This contradiction effectively acknowledges that the pattern of development, and resulting impacts of that devel-

opment, would differ under the existing General Plan from the pattern and impacts with the proposed UGB.

(b) Smaller Area Inside the Urban Growth Boundary

The DEIR discusses an alternative in which the UGB would encompass a smaller area. This tighter UGB would leave out (a) two areas in the east foothills (Silver Creek and Edenvale) that are already designated as non-urban hillside and (b) the Coyote Valley Urban Reserve.

- **Non-Urban Hillsides.** As indicated in the DEIR's discussion of this alternative, virtually no development is permitted in these areas under current City policy. The Non-Urban Hillside area of the Silver Creek Valley Planned Residential Community would allow a total of 32 housing units; the DEIR states (p. 165) "The Silver Creek Planned Residential Community also designates non-urban hillside lands and precludes their development." The DEIR also states non-urban hillsides in the Edenvale Redevelopment Area "cannot be developed with urban uses above the 15 percent slope line." The DEIR states (p. 165), however, "Placing these properties outside the UGB would not change the amount of development allowed on the land and would, therefore, have no environmental effects." In this statement, the DEIR acknowledges that entitlements are already in place for the Silver Creek and Edenvale planning areas, and their development potential has already been established.
- **Coyote Valley Urban Reserve.** The DEIR also concedes that this area is not anticipated to be developed before the year 2020; that is, within the time horizon of the General Plan. The tabulation of residential development potential presented in the General Plan EIR explicitly assumes that no development will occur in this area, and does not analyze any environmental impacts associated with it. Therefore, to assert that drawing the UGB to exclude this area from development represents an alternative to the proposed project is misleading, because it was already excluded from development before the end of the General Plan period.

Given the understanding of the impacts of the "Smaller Area" on development potential (locations and amounts), this alternative is not materially different from the proposed location of the UGB. A conclusion that this alternative is environmentally superior to the proposed project is thus not supported, because there is no significant difference between the alternative and the proposed project. Impacts described in association with eventual urbanization of the Coyote Valley Urban Reserve are not avoided by this alternative, because (1) development is not expected through the time frame of the General Plan and (2) the impacts of urban development in the Coyote Valley Urban Reserve have not been evaluated in the General Plan EIR or any other CEQA document; therefore, development cannot occur until CEQA review is completed.

Like other sections of the DEIR, this discussion ignores the effects of constraining the supply of developable residential sites: dislocation of residential development, with resulting impacts on traffic congestion and air quality within the City of San Jose (where development occurs more intensively within the UGB) and on regional traffic, air quality, and conversion of agricultural land to urban use (where development is dispersed to remote locations). In this case, because the alternative does not really reduce the amount of land available for development, there is no impact. If the area included within the UGB were effectively smaller in this alternative, however, housing would be displaced and the types of impacts noted would be increased.

(c) Larger Area Inside the Urban Growth Boundary.

The alternative considered under this heading in the DEIR is modification of the UGB to encompass both the Young Ranch and the Richmond Ranch in their entirety.

The DEIR states, "To the extent that the inclusion of these properties within the UGB might be interpreted to mean that the UGB was flexible or subject to modification in non-urban hillside areas, this alternative is in direct conflict with one of the project objectives in that it does not provide a greater degree of certainty for the general public as to the long-term expectations for urban development." The statement as it stands does not make sense; how could establishment of the line in a certain location indicate that it is flexible?

Consistent with other sections of the DEIR, this discussion also ignores the effects of changing the supply of developable residential sites. Expansion of the UGB to include the potential for 2,400 additional housing units would expand the supply of sites for new residential development that is demanded in the marketplace. An increase in the supply of sites will allow the production of more housing that is attractive to housing consumers within the San Jose urban area. The resulting physical impact will be potential for lower-density (more market-acceptable) housing at within the USA, which in turn means shorter commute distances, less increase in regional vehicle miles traveled and traffic congestion, and less air pollution. The DEIR should make a good-faith effort to balance the environmental benefits associated with this development pattern (compared to the dispersal of some development to leapfrog locations) against the adverse impacts associated with the conversion of some land in the greenbelt to urban uses.

The types of potential impacts identified in the evaluation of this alternative – related to visual impacts of building on hillsides, loss of habitat, exposure to geotechnical risk, and potential for degradation of water quality – are (or should be) all subject to mitigation by appropriate project-level environmental review that implements existing City policy.

(d) No Minor Modifications of the UGB

The discussion of this alternative (p. 170) is inconsistent: first, it identifies potential impacts that might result from development that would be allowed following minor modifications to the UGB (essentially the same list as for the previous alternative) and then concludes that the alternative – which does not allow minor modifications – would not result in any additional environmental impacts or benefits. If adoption of the UGB proposal as presented is to be beneficial, then this alternative would be clearly superior because it would eliminate any vestiges of uncertainty about where the line is located.

(e) Easements in the Greenbelt

As noted above, the DEIR effectively dismisses this alternative by stating that funding has not been identified, but funding is not a CEQA issue, so the alternative is infeasible. Either this analysis demonstrates that this alternative was not appropriate for inclusion in the DEIR in the first place, because it is not a real alternative, or the discussion is not adequate.

9. The DEIR does not address the significance criteria that it establishes for defining impacts.

The DEIR identifies "Significance Criteria" for each topical area of environmental analysis. These criteria are intended to establish thresholds for determining whether identified impacts are significant. The impact analysis in the DEIR, however, seldom addresses the significance criteria. The following discussion summarizes the disjunction between the identified criteria and the impact discussion. A more detailed, topic-by-topic and point-by-point discussion is appended to this letter.

Land Use

Among the significance criteria for land use impacts (DEIR pp. 24-25) are (1) incompatibility with infrastructure capacity, (2) substantial loss of open space, (3) conversion of prime agricultural land to non-urban use or impairment of the agricultural productivity of land, or (4) displacement of a large number of people.

- **Incompatibility with infrastructure capacity.** The DEIR does not discuss current infrastructure capacity, and therefore is not able to draw conclusions about whether growth consistent with the UGB could be accommodated. If any of the development displaced by the establishment of a permanent UGB is dislocated to infill sites within the UGB, then the DEIR should evaluate the adequacy of the City's infrastructure capacity; if it is dislocated to leapfrog sites beyond the City's SOI, then the DEIR should evaluate regional infrastructure, such as roadways.
- **Substantial loss of open space.** The DEIR asserts (p. 29) that adoption of the UGB "will not cause development on agricultural lands, nor will it directly result in any loss of open space." It does not discuss the trade-offs between the amount of open space presumed to be preserved by adoption of a permanent UGB (in other words, the amount of land that would otherwise have been converted to urban use through modifications to the USA) on the one hand and the regional development effects of potential leapfrog development on the other. For there to be no offsetting loss of regional open space, the DEIR would have to argue that all residential development not allowed to locate on sites that would become available via USA modifications would be accommodated as intensified development on infill sites within the UGB. (Such capture would require both sufficient land supply and market acceptance of the resulting development types, as discussed on pp. 13-14 of this memo.)
- **Conversion of prime agricultural land to non-agricultural use or impairment of the agricultural productivity of prime agricultural land.** The DEIR states (p. 29) that "Adoption of the UGB will not cause the loss of open space or agricultural land." As discussed elsewhere in this memo (p. 12), it does not discuss the potential impacts on agricultural land of development in leapfrog locations. Further, it does not discuss the relative advantages and disadvantages of permitting development adjacent to existing urban development (e.g., through incremental modifications to the USA) versus development on leapfrog sites over which the City has no control, and which may be far more disruptive to viable agriculture if it is located on sites surrounded by agriculture.
- **Displace a large number of people.** The DEIR does not address this criterion. If new development dislocated from the areas that would have been included in an expanding USA is instead located on infill sites within the UGB, it would exert upward pressure on housing prices (both as

a result of increasing land prices, caused by a limit on the amount of land available, and as a result of timing delays, which would inhibit supply responses to growing demand). Increased housing prices would have an adverse effect on all renters and on homeowners seeking to change their places of residence. Renters would face increased rents for the units they occupy, and could be forced to move out of their neighborhoods (and possibly even beyond the SOI) if prices rise beyond their ability to pay. Similarly, renters and homeowners seeking to change their places of residence (e.g., because of changes in job location, changes in family size, or for other reasons) may not be able to afford the type of housing they seek within the City of San Jose.

Transportation

Significance criteria defined for the DEIR are different from those used in the General Plan EIR. They define (1) a significant systemwide impact as one that causes an increase in vehicle miles traveled *and* an increase in vehicle hours traveled *and* a decrease in average speeds and (2) a significant corridor or screenline analysis as one which causes a defined increase in the volume-to-capacity (V/C) ratio.

The General Plan EIR, in contrast, identifies significant impacts where V/C ratios are exceeded on major corridors or at defined screenlines, regardless of how the future V/C ratios compare to existing V/C ratios.

- **Systemwide Transportation/Circulation Impact.** The DEIR (p. 105) defines this criterion as follows: "(On a TRANPLAN systemwide basis:) All three of the following were to occur: a) a 1.5% increase in Vehicle Miles Traveled (VMT); b) a 1.5% increase in Vehicle Hours Traveled (VHT); and c) a one mile per hour decrease in average speeds." The DEIR does not provide information on existing VMT, existing VHT, or existing average speeds. Therefore, it does not provide a basis for comparison of future conditions and the calculation of changes in VMT, VHT, or average speeds.
- **Corridor or Screenline Impact.** The DEIR (p. 106) defines this criterion as "A screenline volume-to-capacity ratio that is less than 0.90 under the base case to equal or exceed 0.90." Because the DEIR does not provide information on existing screenline volume-to-capacity ratios, it cannot compare projected future conditions to the existing conditions.

The DEIR states (p. 106), that "the amount of development allowed by implementation of the General Plan with a UGB would be the same as that allowed by implementation of the General Plan without the UGB," and "The base case traffic is the same as the project traffic." It thus ignores (1) the potential for differences in the locations of new/intensified development within the UGB as a result of the project and (2) the potential for regional traffic impacts related to leapfrog development. As a result, the statement of cumulative impact (same with or without the UGB) is not supported.

Air Quality

Significance criteria defined for the DEIR are different from those used in the General Plan EIR. In this DEIR, an impact is defined as significant (DEIR p. 121) if it will (1) cause population growth within the City of San Jose Sphere of Influence to exceed the projections in the Clean Air Plan, (2) cause the rate of increase in VMT within the City of San Jose Sphere of Influence to exceed the rate of increase in population, or (3) alter air movement, moisture, or temperature, or result in any change in climate.

The General Plan EIR, in contrast, uses the significance criteria from the CEQA guidelines: "a project would normally be considered to have a significant effect on air quality if the project violates any ambient air quality standard, contributes substantially to an existing air quality violation, or exposes sensitive receptors to substantial pollutant concentrations" (p. 102 of the General Plan FEIR). The DEIR does not provide the information needed to address these criteria.

As discussed below, the DEIR does not provide adequate information to address the first two criteria it purports to adopt. It does not address the third criterion at all.

- **Population growth within the City of San Jose Sphere of Influence exceeding the projections in the Clean Air Plan.** The DEIR states that the inclusion of a UGB "will not cause estimated population to exceed Clean Air Plan projections, nor will it cause VMT to increase faster than population in the City of San Jose Sphere of Influence." It does not, however, provide information about the population projections contained in the Clean Air Plan; therefore, it cannot address this criterion. The DEIR relies on the assertion, made in the Land Use section of the report, that the adoption of a UGB "will not result in any increase in population beyond the currently estimated holding capacity of either General Plan." It goes on to note that "the adoption of the UGB will not itself cause any growth to occur in the City or the County."

Actually, the adoption of a UGB may well *decrease* population growth in the County, because some portion of the households not accommodated within the San Jose SOI as a result of the project are likely to find housing in out-of-county communities such as Hollister, Los Banos, and the communities of Santa Cruz County.

- **Rate of increase in VMT within the City of San Jose Sphere of Influence exceeding the rate of increase in population.** The DEIR does not identify the projected rate of increase in VMT within the San Jose SOI, nor does it identify an expected rate of increase in population. (As noted above, it deems the ABAG *Projections 98* population projection for 2010 to be "generally consistent" with the population projection used during the General Plan update, even though the more recent ABAG figure is 10 percent higher. The DEIR does not, however, either adopt a new population projection or discuss changes in population growth that would result from adoption of a permanent UGB.)

Other Significance Criteria

Significance criteria for other environmental topics – visual and aesthetic quality, flooding, drainage, and water quality, noise, energy, geology and soils, hazardous materials, vegetation and wildlife, and utilities and service systems – are discussed in the appendix to this memo.

Appendix

Detailed Discussion of Significance Criteria Not Discussed in the Memorandum That Are Defined but Not Addressed in the DEIR

Visual and Aesthetic Quality

- **Substantially block existing views of scenic vistas or resources.**

The DEIR does not address this criterion.

- **Produce substantial light or glare, such that it poses a hazard or nuisance.**

The DEIR does not address this criterion.

- **Introduce new development which will substantially detract from the integrity, character and/or aesthetic environment of the area.**

The DEIR does not address this criterion directly, but acknowledges cumulatively significant impacts (with or without the UGB) associated with the development of designated land uses and supporting public facilities, including development of the Urban Reserves. The DEIR should address the impacts of more intensive development on existing areas of the City.

The EIR contains one impact statement about cumulatively significant visual impacts, but it is not explicitly related to any of the significance criteria.

Geology and Soils

- **Result in development or infrastructure being constructed on a site with geologic features which would pose a substantial hazard to property and/or human life (*i.e.*, an active fault or active landslide).**

The impact statements in the EIR do not focus on faults or landslides; instead, drawing from the General Plan EIR, they name hazards associated with weak/expansive soils, erosion, and grading in serpentine soils.

- **Expose people or property to major geologic hazards that cannot be mitigated through the use of standard engineering design or seismic safety design techniques.**

The DEIR does not address this criterion. The conclusion of this section of the DEIR, however, states, "No mitigation is required to reduce impacts of adopting the UGB, because the UGB will not cause significant soils and geologic impacts."

Flooding, Drainage, and Water Quality

- **Increase the potential for flood-related property loss or hazard to human life.**

The DEIR does not address this criterion. The conclusion of this section of the DEIR, however, states, "No mitigation is required to reduce impacts of adopting the UGB, because the UGB will not cause significant soils and geologic impacts."

▫ **Significantly increase peak stormwater runoff.**

The DEIR asserts (p. 54), "Adoption of the UGB by the City and County would not change the amount of either existing or planned development, would not increase the amount of land developed, nor would it permit increased intensity of development. Adoption of the UGB would not, therefore, cause or increase runoff or flooding impacts."

As noted above, intensification of development within the UGB is one likely impact of the project, because some development that would have occurred on sites at the USA boundary (with expansion of that boundary) will be displaced to sites within the UGB, and, according to the General Plan, the City can accommodate more housing units than projected in the Plan. If intensification occurs, then the amount of impervious surface is likely to increase, resulting in increased runoff. Similarly, changes in the infill locations of development may overload existing drainage facilities in infill areas that were not originally expected to accommodate intensified development.

▫ **Significantly increase stormwater pollution discharges to stormwater systems.**

The EIR acknowledges "Increases in nonpoint pollution resulting from implementation of the existing San Jose and Santa Clara County General Plans with or without the UGB would result in cumulatively significant water quality impacts," and goes on to state that impacts with the UGB would be the same as already anticipated from implementation of those plans.

▫ **Substantially degrade water quality.**

Same as the previous point.

Cultural Resources

▫ **Cause a substantial adverse change in the significance of a historic resource.**

EIR notes potential cumulatively significant impacts on historical resources with or without the UGB, as a result of development of the residential uses allowed for within the intensification corridors. It is possible that increased intensification would increase the pressure on historic resources, depending on the strength of the protections that are in place.

▫ **Cause damage to an important archaeological resource.**

EIR notes potential cumulatively significant impacts on archaeological resources with or without the UGB, as a result of subsurface activity associated with development.

Hazardous Materials

The DEIR discussion of impacts related to hazardous materials is general, stating that implementation of the City and County General Plans with or without the UGB could result in cumulatively significant hazardous materials impacts associated with future residential and other sensitive uses on potentially contaminated sites or in existing industrial areas, and from the release of hazardous materials from future industrial or commercial developments or (on?) uses in residential or other sensitive areas. The significance criteria are not discussed in particular.

- **Expose people to a significant risk associated with the storage, use, and disposal of hazardous materials, or existing hazardous materials contamination on the site.**

The DEIR does not address this criterion.

- **Pose a hazard to people or animal or plant populations.**

The DEIR does not address this criterion.

- **Create a public health hazard.**

The DEIR does not address this criterion.

Vegetation and Wildlife

The DEIR does not address, in any meaningful way, any of the following criteria:

- **Directly or indirectly affect (i.e., through habitat loss) a candidate or listed threatened or endangered species.**
- **Directly affect species protected under provisions of the Migratory Bird Treaty Act (e.g., Burrowing Owls and nesting raptors).**
- **Result in an impact to wetlands of greater than one-tenth acre.**
- **Result in an impact of greater than one acre of sensitive habitat (e.g., riparian areas, oak woodland, serpentine grassland).**
- **Interfere substantially with the movement of any resident or migratory fish or wildlife species.**
- **Substantially reduce the habitat of a fish, wildlife, or plant species or cause a species to drop below self-sustaining levels.**

EIR identifies a cumulatively significant impact on special status species by reducing their habitats.

The EIR also notes a cumulatively significant impacts resulting from losses of ordinance-sized trees. This criterion is not listed in the EIR.

Noise

- **Result in a substantial change in ambient noise levels.**

The DEIR relies on the noise analysis of the General Plan EIR to conclude that there would actually be a decrease in some noise levels as a result of extensions of the light rail transit system included in the General Plan. This approach ignores the potential intensification and geographic redistribution of development as a result of the UGB and other conditions that might have changed since the General Plan EIR was prepared.

- **Expose people to noise levels in excess of established local or state standards.**

The DEIR states, "Implementation of the existing San Jose and Santa Clara County General Plans with or without the UGB would result in cumulatively significant noise impacts as a result of residential and other noise sensitive uses being exposed to excessive noise levels. These impacts would be the result of development of designated land uses allowed by the General Plans already, and would not be the result of adoption of the UGB. Many of the noise impacts will be mitigated or reduced by adherence to existing policies."

In drawing only this conclusion, the DEIR fails to consider that exposure to noise is a site-specific condition. It also fails to consider the fundamentally different conditions that will result from adoption of an immovable UGB: because some of the residential development that would have located at the edges of an expanded USA will instead located in intensified sites within the UGB, (1) increases in noise levels will result from increased traffic within a limited area and (2) a greater number of residents will be exposed to existing or increased noise levels.

Energy

- **Encourage activities which result in large amounts of fuel, water, or energy.**

The DEIR notes that development outside the existing USA would require greater amounts of energy to transport water supplies. It does not, however, address the increase in fuel consumption that would be necessary to transport residents displaced to distant leapfrog sites (beyond the San Jose SOI) by the preclusion of housing development at expanded edges of the USA.

- **Use fuel, water, or energy in a wasteful manner.**

The EIR asserts that implementation of the General Plans would not cause excessively wasteful or inefficient use of energy.

Utilities and Service Systems

- **Exceed published national, state or local standards relating to solid waste or litter control.**

Standards are not identified, and this criterion is not addressed.

- **Adversely affect a major utility line or facility.**

The DEIR repeats information from the General Plan EIR about localized impacts on sanitary sewer lines. It does not reconsider the locations identified based on the potential for intensified development within the UGB, because it claims (p. 141) that adoption of the UGB "would not result in more intense development in the Intensification Corridors than is already allowed by the City's General Plan."

- **Result in a substantial increase in the demand for public services.**
- **Exceed the capacity of public service facilities to such an extent as to create a safety or public health hazard.**
- **Use fuel, water or energy in a wasteful manner.**

This one is a repeat from energy, and is not addressed in this section.

Availability of Public Systems

No significance criteria are identified.

- **Fire Protection**

In the discussion of Fire Protection, the DEIR does not address the potential impacts of intensified urban development within the UGB on the ability of the Fire Department to continue to provide service at an acceptable level.

- **Police Protection**

(Impacts on demand for police protection are not CEQA impacts.)

- **Schools**

The DEIR states (p. 149), "It is anticipated that implementation of the San Jose General Plan will include construction of some new schools and/or expansion of existing schools. . . by not allowing development in the hillsides, school capacity would not be necessary in any area of the city not already identified as needing additional capacity." It further states (p. 150), "There is also vacant and underutilized land within the USA which could be used to construct new school facilities within or adjacent to the neighborhoods they would serve."

These statements ignore the following concepts:

- Any new school sites would have to come out of the residential land inventory, consequently decreasing the pool of available sites for residential use;
- Sites within the urbanized area are more expensive than sites in outlying areas, and so would be more expensive for the school district(s) to obtain (which could result in higher impact fees on or less adequate funding from new development);

- Developers in outlying areas, especially those with large sites, can often be required to dedicate land for schools, and this option would not be available on smaller sites and infill sites;
- Areas already identified as needing additional capacity already are deficient, with no remedy in sight. The addition of student to these areas would exacerbate deficiencies. The EIR does not identify any strategies for providing additional school sites or facilities in these areas other than to note the availability of vacant and underutilized land.

▫ **Parks**

The DEIR states that increased demand for new park facilities is not an environmental impact; that buildout of the General Plan will result in the construction of new parks and recreational facilities in new developed areas, and may include expansion of existing facilities, and that the development of new facilities would create physical changes but construction of new parks in conformance with General Plan goals and policies is not anticipated to cause adverse environmental impacts.

Our comments on the Negative Declaration with respect to parks focused on the increased park acreage needed to meet the City's park standards for additional population within the urban area that would not have located there in the absence of an immovable UGB. This DEIR does not provide an estimate of how much intensification might occur, and by how much the need for park land would increase as a result. At a minimum, the EIR should indicate the maximum potential increase in population that could be accommodated by the General Plan and the amount of additional park acreage that would be needed to serve that population.

Can it be decided that increased demand for park acreage is not a CEQA impact?

▫ **Libraries**

Conclusions about libraries are appropriate.

ROBERTA MUNDIE

PRINCIPAL

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University of San Francisco,
Master of Arts in Writing, 1998 (expected)

PROFESSIONAL AFFILIATIONS

American Institute of Certified Planners (AICP)
The Urban Land Institute
American Planning Association (APA)
Association of Environmental Professionals (AEP)
California Planning Roundtable

AWARDS

Sacramento Section, California Chapter APA,
1992 Award for Planning Implementation
(for Sacramento Central City Housing Strategy)

California Chapter APA, 1987 Award
for Comprehensive Planning
(for City of Petaluma General Plan)

EXPERIENCE

Ms. Mundie founded Mundie & Associates in 1981 following nine years as senior staff of a San Francisco socio-economic research firm. Her M&A work has included a broad mix of land development-related studies, from general plan work to environmental impact reports to focused market, economic and fiscal analyses.

Head of Mundie & Associates from its establishment, Ms. Mundie brings to her work a clarity in organization; and in written and spoken presentation, that contributes significantly to the quality of M&A's work products. Among her special interests are the interrelationship of land use and transportation, resources planning, and use of the CEQA process in public decisionmaking.

PROJECTS

EIR on General Plan > environmental review of four alternative futures for Pleasanton: the 1986 General Plan, the draft 1996 Update, the existing (1995) condition, and a composite of property owners' preferences. The CEQA document included detailed review of four geographic and five transportation subalternatives.

Antioch Infrastructure Plan EIR > evaluation of the potential impacts of alternative development schemes – including housing and employment-related uses – that could be accommodated by infrastructure plans for two future urban areas. The EIR was designed to serve as the foundation for annexation and formulation of environmentally-responsive specific plans for the two areas.

Specific Plan Environmental Evaluation > framing of a plan for the South Livermore Valley accommodating vineyard protection and development, taking account of environmental and economic contexts.

Downtown Rezoning Study > evaluation of economic effects, and preliminary evaluate of environmental effects, of rezoning the central area of Concord for higher-density residential use.

Economic Element of General Plan > research, consultation to economic issues committee, and preparation of economic element of award-winning plan for Petaluma. Background studies by M&A covered economic base, retailing and economic issues including jobs-housing balance.

Downtown Plan Analysis > comprehensive review of the effects of major new development in the 500-acre area encompassing San Jose's downtown core. Focus was on meeting transportation service and air quality objectives while establishing sufficient density levels to support housing and transit.

EIR on Specific Plan > a project EIR on Pleasanton's proposal to annex 500+ acres of land for a future mixed use development including a golf course, 1,900 dwelling units, and up to 750,000 square feet of retail, office, and civic uses.

EIR on Specific Plan > Specific Plan for Gateway Valley, a 1,005-acre site proposed for development as a 978-acre mixed use project (including a conference center, golf course and housing) and public open space. The EIR considered six land use-based alternatives in detail comparable to the proposed plan; it culminated in a state-of-the-art mitigation monitoring plan.

SUZANNE LAMPERT

VICE PRESIDENT

EDUCATION

University of California, Berkeley,
AB, urban studies, 1971

Princeton University, Woodrow Wilson School
of Public and International Affairs,
MPAUP (Public Affairs and Urban
Planning), 1975

PUBLICATIONS

"Scoping Meetings: Get the Public Involved with
Your Projects," *California Planner*, July 1990.

AWARDS

Sacramento Section, California Chapter APA,
1992 Award for Planning Implementation
(for Sacramento Central City Housing Strategy)

EXPERIENCE

Ms. Lampert has been a key staff member at Mundie & Associates since 1987. Her experience includes environmental impact analysis as well as general and specific plans, real estate feasibility analysis, fiscal impact analyses and market studies for both public and private clients.

Her experience with CEQA projects ranges from general plans and specific plans to single family subdivisions, multi-family housing projects, shopping centers, industrial parcels, and mixed use projects, and from urban to rural areas. Focal issues addressed in EIRs Ms. Lampert has prepared include land use conflicts, traffic, visual impacts, community character, public services, and fiscal impacts.

Prior to joining Mundie & Associates, Ms. Lampert was Vice President/Senior Planner at Gruen + Associates, a Bay Area economic research firm, and a financial analyst at Santa Fe Pacific Realty Corp. (now Catellus) in San Francisco. She has taught Economic Fundamentals for Planners at UC Extension.

PROJECTS

EIR on the Gateway Valley Specific Plan > land use and public service sections of an EIR on the proposed Specific Plan for Gateway Valley, a 1,005-acre site in Orinda; also, preparation of a summary matrix that compared the impacts of a development proposed for the Specific Plan site to those of six EIR alternatives and two additional alternatives that were formulated during project consideration.

EIRs on General Plans > CEQA analyses of General Plans for Pleasanton, Los Altos, Larkspur, and Susanville. In Los Altos and Larkspur, the EIRs focused on impacts associated with revised development designations on selected undeveloped sites; in Susanville, the potential impacts of major changes in land use and circulation designations. The Pleasanton EIR required evaluation of four options and a variety of site-specific "subalternatives".

EIR on a Specific Plan > coordination and major contributions to an EIR on the specific plan for the San Francisco Water Department's 508-acre Bernal Property in Pleasanton. The plan included a mix of residential and "village commercial" (retail and office) uses along with a golf course and other public facilities.

EIR on the Napa Valley Shopping Center Expansion > coordination of the EIR on a proposed Raley's Superstore and renovation of the existing center adjacent to a school and a residential neighborhood. The site was ultimately developed as a factory stores retail center.

EIR on a Residential Subdivision in the City of Napa > environmental review of the Orchard Avenue subdivision. Key issues included impacts of housing adjacent to the Rural/Urban Limit line, drainage, and traffic.

Land Development Forecasts for San Francisco > forecast of development that would result if lands vacated by the demolition of freeway structures damaged by the 1989 Loma Prieta earthquake were made available for private use. Conclusions were incorporated into the growth induction analysis for the Mid-Embarcadero Roadway project EIR.

EIR on a Senior Housing Project > analysis of a proposed 70-unit lifecare project adjacent to downtown Los Altos and an existing residential neighborhood. Issues included land use, traffic, noise and urban design (height and bulk).

EIR on Proposed Joint Development of the Concord BART Station > contributions to an analysis of the impacts of a mixed use project that would require revision of the adopted Redevelopment Plan. Issues included land use, urban design, traffic and employment.



SMITH ENGINEERING & MANAGEMENT

June 29, 1998

Theodore A. Russell, Esq.
Sheppard, Mullin, Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4106

**Subject: City of San Jose Greenline/Urban Growth Boundary DEIR, Review of
Traffic and Transportation Analysis**

Dear Mr. Russell:

At the request of Sheppard, Mullin, Richter & Hampton LLP, I have reviewed the Draft Environmental Impact Report (DEIR) on the proposed City of San Jose Greenline/Urban Growth Boundary (UGB). This letter documents the findings of my review.

QUALIFICATIONS TO PERFORM THIS REVIEW.

I am a registered Civil and traffic engineer in California and have been practicing as a traffic and transportation engineering consultant in the Bay Area for 30 years. In my engineering practice I have prepared and reviewed the transportation elements of numerous environmental documents, including ones on General Plans and General Plan amendments. I am familiar with the San Jose area, with the transportation analysis techniques employed in the DEIR and with the transportation data base available for the San Jose area. My resume is attached.

SUMMARY OF FINDINGS

The transportation component of the DEIR is inadequate as circulated for a number of significant reasons. Some of the primary reasons are as follows:

- If the purpose of the proposed UGB is to prevent urban development in the "Greenbelt," (i.e., the area within the City of San Jose's Sphere of Influence but outside the proposed Urban Growth Boundary), the UGB will clearly have significant transportation impacts. To the extent that, absent adoption of the UGB, the "project"

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that is the subject of the DEIR, development would have continued to occur in the greenbelt area outside the proposed UGB, then traffic and transportation patterns would be altered. The alteration of transportation patterns would happen either within the urbanized areas of San Jose, in the regional approach corridors to San Jose or in both places. This is because adoption of the UGB will force development that would have occurred in the Greenbelt to take place either as additional infill within urban San Jose or as "leapfrog" development at the area's fringes or some of both. When development location shifts caused by the UGB occur as densification within urbanized San Jose, it will increase traffic pressure on key freeways, expressways and arterial intersections already operating in deficiency conditions or that are on the verge of becoming deficient. When development shifts caused by the UGB occur as growth in distant communities at the fringes of the region, the UGB will increase traffic pressure on regional gateway corridors already operating in deficiency conditions. Hence, there is every reason to expect the likelihood of transportation impacts of the UGB. Since conditions of deficiency are extensively projected on transportation system in the urban core that would be impacted by infill development traffic and on the regional gateway corridors that would be impacted by leap-frog development traffic, it is probable that those impacts would be significant. These effects of the UGB on transportation are not evaluated in the DEIR.

- In point of fact, the transportation analysis in the DEIR is not an assessment of the proposed UGB. It is simply an analysis of transportation impacts resulting from build-out under the Land Use Element of the City's 2020 General Plan. There is no assessment of the transportation consequences associated with the proposed UGB project. Development history in San Jose includes numerous alterations of the Urban Services Area (USA) and development in the Greenbelt area. In recent years, the City Council expanded the USA to permit development of the Silver Creek Valley Country Club, California Oaks, the Emerald Heights and Ryland Homes projects at Richmond Ranch, Cerra Plata, Bettencourt, Hillstone, development in the Evergreen foothills and the Levin/Shea Homes project. The Association of Bay Area Governments forecast of housing demand for San Jose during the span of the 2020 General Plan indicates that demand for new dwelling units will exceed the projected demand under the 2020 General Plan by thousands of units. Given this excess demand and the established current pattern of permitting development in the Greenbelt, there is every reason to expect that under a continuation of present policies (that is, without the proposed UGB), a substantial portion of this excess housing demand would be met by additional development in the Greenbelt. For the transportation analysis of this DEIR to be adequate, it must define and evaluate a "baseline" land use and transportation condition that reflects accommodation of a reasonable portion of the excess housing demand in the Greenbelt through the year 2020 under continuation of present policies. This is generally referred to as the "Future No Project" analysis. The DEIR should then analyze the transportation impacts of the proposed UGB project through the year 2020. This would require a reasonable redistribution of those units that otherwise would have been developed in the Greenbelt under existing policies. This is generally referred to as the "Future With Project" analysis. Only by comparison of the results of

the Future No Project and Future With Project analyses is the transportation impact of the UGB project properly disclosed. The DEIR presents no such evaluation.

- The data, methodology, measures of impact and thresholds of significance employed in the DEIR's transportation analysis are inadequate even if reasonable "Future No Project" and "Future With Project" evaluations had been considered. The DEIR uses outdated and misleading data regarding existing traffic conditions including traffic volume data and intersection Level Of Service (LOS) data that is at least 5 years old. The LOS information in the DEIR understates existing conditions that are deficient or on the immediate threshold of becoming deficient at twenty-eight major intersections in the City that are of such importance as to be designated in the County-wide Congestion Management Plan (CMP) system. The DEIR uses as measures of impact forecasts of "vehicle miles traveled" (VMT), "vehicle hours traveled" (VHT) and "average vehicle speed" (AVS). These are crude aggregate measures that may simply be measures of satisfactory utilization of the transportation network rather than indicators of impact. They are too ambiguous to be used as criterion of impact. In fact, since speed or travel time may be adjusted without respect to actual conditions as a way of fine-tuning the accuracy of the base year traffic volumes forecast by the model, VHT and AVS would be just derivatives of a variable that is freely adjusted to get the volume forecasts right, not attributes that are representative forecasts of future conditions. As such, they would be totally unsuitable as criterion of impact. In addition, the DEIR fails to include a detailed intersection-by-intersection capacity/level of service analysis for major arterial and expressway intersections that is the accepted means of evaluating traffic impacts in an EIR. Such detailed analysis is needed to disclose the true transportation impacts of redirecting growth inside the proposed UGB. Also, DEIR is unclear as to what transportation forecast model was actually employed in its analysis. Page 99 of the DEIR and page 18 of Appendix A state that the Metropolitan Transportation Commission (MTC) regional model was used. Page 105 of the DEIR and page 2 of Appendix A indicate that the City of San Jose's TRANPLAN model system was used.¹ If the MTC model was the primary tool, its representation of the transportation system and analysis zone structure is insufficiently detailed in San Jose to provide the level of analysis needed to assess impacts of growth that is redirected internally within San Jose. On the other hand, to the extent that creation of the UGB displaces development that would otherwise have occurred on San Jose's urban fringe to more distant communities, the City's TRANPLAN model is not well suited to disclosing traffic impacts this development shift would cause on the region's gateways. The San Jose model provides insufficient detail of the transportation system in those areas to properly measure impact there.

¹ The 2020 General Plan EIR presents a similar confusion about what model was used. Page 70 of Volume I and page 21 of Volume II, Appendix A state the MTC model was employed. Page 78 of Volume I and pages 3, 40 and Appendix A-1 of Volume II, Appendix A indicate that the City of San Jose model was used. The parallelism of this point of confusion in the UGB and 2020 General Plan EIR documents highlights a broader observation. In a close comparison of this DEIR to the 2020 General Plan EIR, it seems evident that this DEIR's transportation section is little more than a superficial editing of the 1994 document.

- An adequate EIR transportation analysis on the project would include the following:
 - 1) Baseline data that indicates current traffic conditions, not those of five years ago.
 - 2) The transportation impact analysis for an EIR should include a detailed comparison of future transportation conditions as they would be under a continuation of existing General Plan policies, the baseline "Future No Project" condition versus future transportation conditions as they would be under the proposed policies, the "Future With Project" condition. The differences in transportation conditions in this comparison constitute the transportation effects of the project. The significance thresholds described below indicate whether those transportation effects constitute significant impacts.
 - 3) "Significance thresholds" are the criterion used in an EIR to indicate when the measures assessing transportation system performance show that the effect of a project on the transportation system is a significant impact. In the evaluation of the "Future No Project" and "Future With Project" scenarios in this EIR, the screenline volume-to-capacity ratio analysis used in the 2020 General Plan EIR should continue to be employed as a measure of transportation system performance. However, the significance threshold of causing the volume to capacity ratio (VCR) to exceed .90 should be augmented to include a measure of impact where traffic is added to a screenline that already exceeds a VCR of .90. In addition to the screenline analysis, another transportation system performance measure should be added. This measure is intersection capacity utilization/level of service analysis for all CMP system intersections in San Jose.² The analysis should conform to the Santa Clara Valley Transportation Authority Congestion Management Plan (CMP) procedures including impact significance thresholds per the *Congestion Management Program Transportation Impact Analysis Guidelines*.
 - 4) The transportation analysis should make appropriate use of, and the EIR should coherently describe the use of, the transportation forecast models available to the analysis. Specifically, a broader regional forecast model - Santa Clara County's or MTC's rather than San Jose's TRANPLAN model should be used where a comparison of the "Future No Project" and the "Future With Project" scenarios indicates that the proposed UGB will cause leap-frog development at somewhat distant locations in the region (where the City of San Jose's own transportation forecast model would not reasonably forecast transportation impacts). For assessment of transportation impacts within San Jose and central Santa Clara County, the San Jose TRANPLAN model should be employed.

² Such analysis is required under California Government Code Sections 65088 - 65089.10.

- 5) The DEIR should include recommended mitigation measures where analysis determines that the project would have significant traffic impacts.
- Because of the severe inadequacies of the DEIR, the transportation section should be entirely redone. Because of the extensive changes required, the DEIR should be recirculated as a draft document.

DETAILED COMMENTS

The DEIR's Transportation Analysis Is Conclusory And Fails To Consider Probable Significant Transportation Impacts Of The UGB Project.

Although the transportation component of the DEIR occupies a bulk of 64 pages of text, tables and figures, its content is limited to one conclusory assertion. That assertion is as follows: *On the presumption that the UGB Project will cause no differences in future land use development from the existing General Plan, the UGB Project can have no significant transportation impacts or require transportation mitigations since transportation patterns and effects with its adoption would be identical to those under the existing General Plan.*

As indicated in our initial summary, the initial premise in the above assertion - that there would be no difference in land use development pattern with or without the proposed UGB Project - defies reason and logic. If the City was not concerned that additional development will occur in the Greenbelt without the UGB, there would be no need for the UGB in the first place. There is direct evidence of previous development in the Greenbelt and demand for further development in the Greenbelt. In recent years the numerous developments in the Greenbelt have included the Silver Creek Valley Country Club, California Oaks, the Emerald Heights and Ryland Homes projects at Richmond Ranch, Cerra Plata, Bettencourt, Hillstone, development in the Evergreen foothills and the Levin/Shea Homes project. The Association of Bay Area Governments forecast of housing demand for San Jose during the span of the 2020 General Plan indicates that demand for new dwelling units will exceed that provided for under the 2020 General Plan by thousands of units clearly evidencing a demand that would likely be met by new development authorizations in the Greenbelt under current policies.

Therefore, it must be assumed that the future land use development pattern would be *different* with adoption of the UGB than under the existing General Plan policies, and that future transportation patterns and effects must be *different* with adoption of the UGB than under the present General Plan. The crucial question, then, is this: *Will these differences in future transportation patterns and trips with adoption of the UGB result in significant transportation impacts?* The DEIR inadvertently sheds some light on this question, leading to a conclusion that it opposite to the DEIR's summary dismissal of the possibility of significant transportation impacts. The fact is that the DEIR shows that conditions on the transportation system are already critically close to or exceeding significant impact thresholds and that even small changes in traffic would result in significant traffic impacts.

Consider the DEIR's analysis of screenline volume-to-capacity ratios documented on Table 8 (page 111) and its threshold of significant impact when the project causes the volume-to-capacity ratio on any screenline to exceed .90. The volume-to-capacity ratio reported for several of the screenlines is already very close to .90 including the following screenlines described Table 8 (DEIR page 111). If the UGB caused even minor amounts of traffic growth at these locations, significant traffic impacts would result.

1.	West of I-880	.798
4.	West of Zanker	.858
5.	East of I-680	.836
13.	South of Montague Exp'wy.	.875
14.	South of Charcot	.846
15.	West of I-880/CA 17	.794
17.	North of Hedding	.899
18.	North of Taylor/Naglee	.894
19.	West of I-680	.816
20.	South of CA 85	.784

Next, compare the location of the General Plan's Intensification Corridors displayed on Figure 3 of the UGB (page labeled 19 but actually 20) with the screenline locations shown on Figure 7 (page 92). Note that the "intensification corridor" proposed along East Santa Clara Street-Ahum Rock Avenue crosses screenline 5 and the intensification corridor along the Capitol Expressway closely parallels the same screenline. Screenline 5 is projected have a VCR of .836 under the General Plan development in the DEIR. At normal household trip generation rates and trip distribution assumptions, it would take a growth of only about 140 more households within these two intensification corridors under the "Future With Project" condition for a significant transportation impact to be triggered.

Another example is screenlines 17 and 18 and the intensification corridor extending along the Guadalupe Corridor (and First Street) that crosses these screenlines. Table 8 (page 111) of the DEIR indicates that these screen lines will operate at volume-to-capacity ratios of .899 and .894 under the existing General Plan. If the UGB marginally increased development in that intensification corridor, the significant impact threshold of VCR exceeding .90 would be exceeded for Screenlines 17 and 18. It seems obvious that, given the obvious demand for growth in the Greenbelt, the UGB policy that would effectively prohibit growth in the Greenbelt and redirect that growth to the designated Intensification Corridors, would trigger enough additional development in the intensification corridors to create a significant traffic impact.

Reinforcing this point is analysis presented in sections that follow demonstrating that the "existing conditions" data presented in the DEIR is seriously out of date and understates current traffic congestion conditions. If current higher traffic volumes instead of five year old data had been used in the DEIR, the volume to capacity ration on many more of the screenlines than indicated in the DEIR would be very close to the .90 volume-to-capacity

ratio significant impact threshold. Hence, many more locations would be sensitive to significant traffic impacts from marginal shifts in development to the Intensification Corridors caused by adoption of the UGB.

The foregoing demonstrates that even relatively small changes in land use development pattern resulting from adoption of the UGB could cause significant transportation impacts not disclosed in the DEIR. The reasonable probability that such significant transportation impacts would occur renders the DEIR's conclusory and dismissive transportation analysis inadequate.

Obsolete And Inadequate Existing Conditions Data Base

In its documentation of existing transportation conditions, the DEIR presents as "existing conditions" data figures and tables reproduced from the July, 1994 *San Jose 2020 General Plan Final Environmental Impact Report* (the "General Plan EIR"). This data was accumulated in 1993 or earlier. It is obvious that many of the key data figures and tables are identical to those of the General Plan EIR document, save for superficial modifications to pagination, title blocks and borders. This information was five or more years old at time of publication of the DEIR and in many cases is superseded and no longer correct. For instance, consider Figure 6 of the DEIR, that purports to present *existing* Level Of Service³ at San Jose intersections that operate at Level Of Service ("LOS") D or worse. This three-page figure is identical to Figure 27 of the General Plan FEIR. However, more recent traffic data reflects that traffic conditions have significantly changed at a minimum of 16 major intersections, each of which are of such significance as to be designated by the City on its' Congestion Management Plan network. These sixteen intersections were reported by the Santa Clara Valley Transportation Authority (VTA) as operating at LOS E or worse in 1997. But they are either reported as operating at LOS D or are unreported in the five year old Figure 6 of the DEIR (implying if unreported that they operate at better than LOS D). These intersections are shown on Table 1.

In addition to the 16 intersections shown on Table 1 that are currently operating at deficient levels of service, but are not so identified in the DEIR, more than a dozen other intersections on the Congestion Management Plan street and highway network within the City of San Jose that the VTA reports currently as operating at LOS D have no LOS designation on Figure 6 of the DEIR. This means that the DEIR's five year old Figure 6 incorrectly identifies them as operating at *better than* LOS D. Clearly, the LOS representations in the DEIR are seriously out of date.

³ We defer to the UGB DEIR and to the Santa Clara Valley Transportation Authority 1997 *Congestion Management Program* for definition of "Level Of Service".

TABLE 1: Deficient Existing Conditions At Congestion Management Plan Intersections Not Identified In DEIR Figure 2-6

Location	Existing LOS Per VTA ⁴	LOS Not Reported In DEIR ⁵	DEIR Reports Acceptable LOS ⁶
Alum Rock Ave. - Capitol Ave.	E		x
Alum Rock Ave. - Jackson Ave.	E	x	
Brokaw Road - First Street	E	x	
Capitol Exp'wy - Aborn Street	E		x
Capitol Exp'wy - McLaughlin Ave.	E	x	
Capitol Exp'wy - Quimby Road	E		x
Capitol Exp'wy - Sentner Road	E	x	
Capitol Exp'wy - Silver Creek Rd.	E	x	
Capitol Exp'wy - Tully Road	E	x	
I-280 Ramps - Saratoga Ave. S.	E		x
Lawrence Exp'wy - Saratoga Ave.	E		x
Montague Exp'wy - First Street	F	x	
Montague Exp'wy - Trimble Road	F	x	
Montague Exp'wy - Zanker Road	E		x
Trimble Road - De La Cruz Blvd.	F		x
Trimble Road - First Street	E	x	

A similar situation exists with respect to the "existing" PM peak traffic volumes reported on Figure 4 of the DEIR. Figure 4 is identical to Figure 27 of the General Plan EIR. We compared the data on Figure 4 to data presented in the November, 1997 DEIR on the proposed Moitozo Ranch Residential Development in San Jose. The transportation analysis for that environmental document was prepared by the same consulting firm that prepared the transportation component of the UGB DEIR and the General Plan EIR. Table 2 shows a comparison of "existing" traffic volumes for those points where freeway volumes were documented in both the Moitozo and UGB DEIRs. The comparison shows that of the six common freeway locations reported in the two studies, vast differences in volume are indicated at three of the common points, significant differences in volume are indicated at two of the common points and a close similarity in volume is indicated in only one instance. It is clear that the existing major street and highway traffic volumes reported in the UGB DEIR, data that predates publication of the 1994 General Plan EIR, is obsolete and inaccurate.

⁴ Existing Level Of Service as reported in the 1997 Congestion Management Program For Santa Clara County, Santa Clara Valley Transportation Authority.

⁵ VTA Congestion Management Plan Intersections within the City of San Jose with deficient level of service conditions but not reported in DEIR Figure 2-6 or related narrative on page 27.

⁶ VTA Congestion Management Plan intersection with deficient existing level of service but reported as having an acceptable level of service (D or better) in DEIR Figure 2-6.

TABLE 2: Comparison Of Reported Existing P.M. Peak Freeway Traffic Volumes.

Location	DEIR Volume	Mitoto Volume	% Difference
I-880 N. of Montague, N th bd.	4860	6105	-25.6
I-880 N. of Montague S th bd.	5020	4996	+ 0.4
U.S. 101 N. of Montague N th bd.	5790	6105	- 5.4
U.S. 101 N. of Montague S th bd.	9820	7097	+27.7
I-880 N. of U.S. 101 N th bd.	5020	5220	- 4.0
I-880 N. of U.S. 101 S th bd.	5180	6380	-23.2

Beyond the fact that existing conditions traffic count and level of service data more than a year or two old are not normally considered adequate existing conditions data in an EIR, the significance of this obsolete and inaccurate existing traffic conditions data is that it tends to minimize and conceal the likely transportation impacts of the UGB project. Consider that the objective and result of the UGB policy is to cause infill and densification of land use in the urban core of the City. The inaccurate and obsolete traffic data described above that understate the deficiency of existing traffic conditions in and close to planned infill areas makes it appear that the transportation system could accommodate the development infill that the UGB policy would cause without significant impacts. An up to date database reflecting existing traffic conditions would make evident the probable significant consequences of the UGB policy on traffic.

Inappropriate Measures Of Impact And Thresholds Of Significance

As three of its four principal measures of transportation impact, the DEIR uses aggregate regional measures that are output from San Jose's traffic forecast model or derivative of output from that model: "vehicle miles traveled" (VMT), "vehicle hours traveled" (VHT) and "average vehicle speed" (AVS). These aggregate measures of transportation system use have little meaning in distinguishing between normal satisfactory use of the transportation system and real transportation impact. These should be discarded from the analysis for the reasons set forth below.

Consider vehicle miles traveled (VMT). As the San Jose General Plan FEIR itself explains, a large aggregate VMT or an increase in VMT could mean that many people travel long distances in a satisfactory manner over a large planning area, "not necessarily to an over-utilization of the roadway system."⁷ Vehicle hours traveled (VHT) is a similarly ambiguous criterion. A large aggregate VHT or an increase in VHT could be indicative of an undesirable situation where large or increased numbers of travelers are exposed to many miles of congested low speed travel on overburdened major roadways. Or it could be indicative of an entirely satisfactory situation where large or increased numbers of travelers travel in generally uncongested conditions on roadways with lower speed limits. The third criterion, average vehicle speed (AVS), is not really a separate measure of performance, it is a derivative value of the first two (VMT divided by VHT).

⁷ San Jose General Plan 2020 FEIR, page 45.

As with those source values, AVS is an ambiguous measure of transportation system performance. A decrease in AVS could be indicative of increased exposure to travel on overburdened facilities with congestion-lowered speeds, potentially a situation of significant transportation impact. Or it could be merely indicative of increased travel on uncongested but lower-speed limit suburban and semi-rural roadways, possibly a satisfactory and non-impactful situation.

In addition to all of the foregoing, there is further reason to question using traffic model-based VHT and AVS as significance criteria. Link speeds on the representation of the street and highway network in the transportation forecast model may be varied without relationship to actual speed conditions during the model's calibration process. VHT, although reported as a model forecast product, may be simply an irrelevant product of input and calibration manipulations to get the traffic forecast model to reasonably replicate base year count data. If link speeds have been manipulated in fine tuning the model to replicate a base year volume pattern, VHT is not a representative forecast of aggregate travel time on the transportation network. Because of this additional consideration, the reasonableness of using VHT and its derivative, AVS, as principal significance criteria is even more questionable.

The fourth measure presently defined in the DEIR, volume to capacity ratio ("VCR") on 31 pre-specified screenlines and the significance threshold of causing the VCR on a screenline to exceed a VCR of .90, should continue to be used. The measure should be modified to indicate significant impact where traffic is added to a screenline already over the .90 VCR threshold. But even this measure fails to provide the intersection level of service detail that is required by State statute¹ and the Santa Clara Valley Transportation Authority's procedures for Congestion Management Plans in cases involving major General Plan alterations such as the UGB Project. The screenline VCR measure of transportation system impact should be supplemented by an additional measure, LOS conditions at all Congestion Management Plan intersections in San Jose and the nearby areas of neighboring communities, with significant impact thresholds as defined by the Valley Transportation Authority Congestion Management Program. If a plan causes LOS to degrade beyond the CMP LOS standard at an intersection on the CMP system, then significant traffic impact would be indicated.

As we noted above, the fourth transportation impact criterion and significance threshold posited in the DEIR, causing the volume to capacity ratio to exceed .90 on any of 31 specified screenlines, is a sensible one. It is a detailed and unambiguous indicator of significant transportation impacts of land use alternatives. However, though the criterion is articulated in the DEIR, it is really not employed. Had the screenline criterion propounded in the UGB DEIR actually been employed to properly evaluate the the redirection of growth (and therefore traffic) that would result from the establishment of the proposed UGB, it would be noted that three of the screenlines² that are on the cusp of crossing the .90 VCR significance threshold are in locations that would be heavily affected

¹ California Government Code Sections 65088 - 65089.10.

² Numbers 14, 17 and 18 on Table 8 of the DEIR.

by additional development in at least three of the designated intensification corridors (see DEIR Figure 3). These screenlines could easily be driven over the significance threshold by traffic from additional development in those intensification corridors. However, the DEIR transportation analysis did not consider the transportation consequences of land use development shifts that would be caused by the UGB. It limited itself to a conclusory and unsupported judgment that there would be no development shifts and no transportation impacts. Hence, the sensitivity to significant impact from development shifts evident in the VCR on the critical screenlines noted was never considered.

Transportation Forecast Model Inadequate For Assessing UGB Project's Impacts

Our introductory points described in detail the DEIR's inconsistent reporting of use of the MTC and San Jose transportation forecast models. It is unclear whether the MTC model or the San Jose model were used, or whether both were used and if so, what portions of the analysis were done using each. It is obvious that if the transportation impacts of the UGB were to be properly analyzed, neither model alone would be satisfactory. One effect of the UGB is to shift the location of the development that would otherwise have occurred in the Greenbelt. Some shifts will occur to "leap-frog" locations at the fringes of the urban region. Other shifts will result as intensification of development in the urbanized core. Assessment of transportation impacts of development at the region's fringes requires a broad area model. Assessment of transportation impacts of intensifying development within an urbanized core requires a detailed model focused on a closely defined area.

The analysis capability of the San Jose's TRANPLAN software based forecast model (the "TRANPLAN" model) is sharply focused on the City of San Jose and the nearby areas of Santa Clara County. In that area of its focus, the model's representation of the street, highway and transit system is highly detailed. In that area of focus, its representation of land use development is also very detailed. The accuracy of a model's forecasts and its sensitivity to changes in land use patterns or changes in the transportation system itself is greatest within its area of focus, the area where it represents the transportation and land use conditions in highest detail. However, outside its focused area, the City of San Jose and nearby parts of Santa Clara County, the San Jose model's representation of the transportation system and land use development in the more distant areas is increasing less detailed, or, as it is characterized in Appendix A of the General Plan EIR, "skeletal". In this skeletal area, the model is not very capable of disclosing transportation impacts associated with development shifts. The San Jose model would be useful for assessing the portion of the UGB's transportation impacts that result from infill if a scenario describing the infill development induced by the UGB was defined (which it was not in the DEIR). However, it is ineffective for assessing the impacts of leap-frog development. The principal transportation effects of that development would be in the skeletal area of the San Jose model where, in an actual attempt to assess the transportation impacts of the project, the model would be ill-suited to, if not incapable of, disclosing them.

By contrast, the MTC model is broad in area coverage and would be useful in assessing the transportation impacts of the "leap-frog" development caused by the proposed UGB.

project. But its rather coarse detail would be ill-suited to disclosing the transportation impacts of infill development in San Jose caused by the UGB.

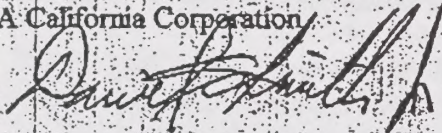
In a proper attempt to determine the actual transportation impacts of the UGB project, the San Jose model and the MTC model would be used in coordination, the San Jose model concentrating on consequences of infill and the MTC model on the impacts of "leap-frog" development. The DEIR presents no indication that the models were used in any such systematic and coordinated fashion.

CONCLUSION

This concludes our preliminary comments on the DEIR for the proposed UGB. We believe that the DEIR fails to analyze any of the traffic impacts likely to result from the proposed project or discuss potential mitigation. Furthermore, we believe the deficiencies of the DEIR are so extensive and significant that, assuming the traffic analysis is revised in response to these comments, it should be re-circulated in draft form.

Sincerely,

SMITH ENGINEERING & MANAGEMENT
A California Corporation



Daniel T. Smith Jr., P.E.
President

June 16, 1998

Ms. Renee Robin, Esq.
Mr. Ted Russell, Esq.
Sheppard, Mullin, Richter and Hampton
4 Embarcadero Center
San Francisco, CA 94111
via fax:

Dear Renee and Ted:

I am writing in response to your request that I review the Draft Environmental Impact Report for the *Greenline/Urban Growth Boundary*, prepared by the City of San Jose and Santa Clara County (SCH#97122060). I am undertaking this review free of charge. Please note that none of my comments should be taken as indicating disapproval of urban growth boundaries. Quite the opposite: done right, they can be enormously effective. Also please note that I think the City of San Jose has an outstanding track-record of land use and redevelopment planning; I regard the weaknesses of the reviewed document as aberrations, and not typical of San Jose's largely sound approach to land use planning and growth policy.

I have organized my comments into two sections; the first, dealing with the adequacy of the EIR document; and the second, dealing with the greenline policy as presented in the EIR document.

A. Draft EIR (DEIR).

The principle problem with the DEIR is that its discussion of the land supply situation in the San Jose sphere-of-influence and Santa Clara County is too sketchy; and that the potential impacts of the proposed greenline policy on area land and housing markets (p. 21- 32) are inadequately documented:

1. On page 21, the DEIR asserts that there is sufficient vacant land within the San Jose Urban Services Area (USA) to accommodate projected residential development through the year 2020. In particular, the DEIR draws on a previously-conducted vacant land inventory to indicate that 4,253 acres of undeveloped, residentially-zoned land is currently available in the USA. This supply, the DEIR asserts, is sufficient to accommodate an additional 52,900 projected housing units.

Implicit in this assertion is the assumption that projected new residential development will occur at an average gross density of 12.5 units per acre or greater. This is an extremely high density, and one which I suspect, is *significantly above* prevailing market-based densities. While such densities may be physically feasible, they are probably not realistic. If they are not--that is, if the market preferences for housing are well below 12.5 units per acre--then the designated supply of land within the USA will be insufficient to

accommodate projected development¹.

If such is the case, the effect of the proposed policy will be (at least) two-fold. It will, first, exert further upward pressure on home prices in Santa Clara County—already the highest in the nation—and reduce housing affordability accordingly². Second; and, (ii) it will encourage homebuilders and developers to “leapfrog” further out to other parts of the Bay Area, and San Benito³ and Santa Cruz Counties in search of residentially developable land. *Note that this is the very outcome the greenline policy is designed to avoid.* Much of the new home development which is currently occurring in central and eastern Alameda and Contra Counties is for Silicon Valley employees unable to find housing in the county in which they work.

The issue of density is important in other ways as well. To the extent that development occurs at lower than anticipated densities, or is more far-flung, it will tend to boost trip-generation rates and single-occupant vehicle use, thereby adding, potentially, to street and perhaps freeway congestion levels.

In its current form, the DEIR does not present enough information regarding current, market, and proposed densities, and their relationships to land supply, to evaluate these issues and impacts. It should.

2. Even if there are adequate land supplies within the USA, it is not clear from the DEIR whether that land is in the appropriate form. The home and apartment builders who dominate the San Jose market are mostly interested in flat, regularly-sized, and large (3-5 acres or more) parcels. To the extent that the supply of available sites does not meet these criteria, or, to the extent that the owners of these sites are unwilling to sell, the supply of land appropriate for residential development may be far less than the physical supply. Again, the DEIR does not address these issues.
3. Lastly, property markets require adequate reserves to work properly. If there are not adequate reserves, landowners can demand monopoly prices for their properties, dramatically inflating the cost and price of development. The reserve levels required to make land markets work smoothly varies widely by area, but is generally thought to be in

¹ Most of the undeveloped areas inside the urban services boundary are zoned for single-family homes. Single-family densities are typically in the range of 6-9 units per gross acre.

² Half of all Santa Clara County renters paid more than 30% of their income for rent in 1996, according to the American Housing Survey (U.S. Census Bureau). Thirty percent is widely regarded as the national benchmark for housing need.

³ The City of Hollister in San Benito County recently enacted a residential building permit cap precisely to protect itself from spillover growth from Santa Clara County.

the 30%-50% range⁴. The fact that the San Jose USA does not include adequate long-term reserves has already been identified by the market, and is the main reason why land prices in Santa Clara County are already so high.

In summary, in order for the DEIR to properly conclude that there is adequate land supply within the San Jose USA (and proposed greenline boundary) to mitigate against substantial housing price increases and “leapfrog” spillovers, it must present more careful and detailed analysis of the current supply and demand for residential sites in the USA and surrounding areas.

B. Successful Urban Growth Boundaries

Urban growth boundaries (UGBs) such as San Jose’s proposed greenline are not new. They have been in existence in Oregon since the mid-1970s, most notably in the Portland metropolitan area. Much has been written regarding Portland’s generally successful experiences—enough to begin to identify what is necessary for UGBs to work as intended:

1. First and foremost, UGBs are best designed and administered on a regional or sub-regional level—precisely so that displaced development doesn’t leapfrog outward to the nearest community that lacks a UGB. Portland’s UGB covers nearly 20 neighboring jurisdictions. San Jose’s proposed UGB was designed and will be administered by one jurisdiction, without regard to its regional impacts.
2. As noted above, UGBs should be designated so as to include sufficient supplies of developable land at market-based densities, including reserves. Portland’s UGB was drawn in 1973 to include 20 years of developable land (at market densities) plus 33% reserves. The DEIR suggests this is not the case for San Jose.
3. In order that they not become political footballs, UGBs should be automatically reviewed on a fixed schedule—say 5, 10 or 15 years (Portland’s UGB was set up to be reviewed on a 20 year schedule). San Jose’s UGB proposal includes no such timetable. Conceivably, San Jose’s UGB could never be reviewed.
4. To avoid unforeseen impacts, and because growth is inherently unpredictable, UGBs should include “hard triggers,” such that when land and/or housing prices rise to a pre-determined point, or when developable land supplies decline to some point, the UGB is automatically reviewed. Such is not the case in San Jose.
5. Lastly, UGBs are but one of many growth management approaches and should be integrated with other complementary land use planning tools. In San Jose’s case, the long-term goal seems to be to promote more intense “infill” development; and the city is

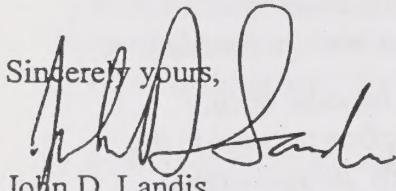
⁴ Because it is not likely to be available for development in the foreseeable future, the Coyote Valley Reserve area can not be considered reserve to the current market.

relying on the UGB to redirect growth from the fringe to existing urbanized areas. The evidence from Portland suggests this can work, but only when UGBs are coupled with strong programs to upgrade existing urban areas and make them more attractive in the market. San Jose has done this to some extent with its downtown redevelopment approach, and light-rail investments, but still lack's Portland's more comprehensive approach.

In short, if San Jose (supported by Santa Clara County) is to adopt a UGB, it should do so in the most effective way possible. Instead of looking at alternate UGB approaches (including some of the ideas noted above), the alternatives analysis section of the DEIR (p. 159-174) considers only marginally larger and smaller UGB areas. The sort of analysis that would lead to a more effective and fairer UGB is regrettably missing.

I hope you find these comments useful. I have enclosed a two-page biography of relevant publications for reference purposes. Please feel free to call on me for further advice or comment.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'John D. Landis', written over the 'Sincerely yours,' text.

John D. Landis
Associate Professor
Department of City and Regional Planning
University of California, Berkeley

JOHN D. LANDIS

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EDUCATION

University of California, Berkeley: Ph.D. in City and Regional Planning (1983).
Massachusetts Institute of Technology: Bachelor of Science in Civil Engineering (1978).

EMPLOYMENT

Associate Professor (March 1993 - Present); Assistant Professor (January 1987-February 1993). Department of City and Regional Planning, University of California, Berkeley.

Assistant Professor (January 1985-December 1986); Georgia Institute of Technology.

Assistant Professor (January 1983-December 1984); University of Rhode Island

AWARDS AND FELLOWSHIPS

Journal of the American Planning Association: Best article of 1995.

The Urban Land Institute: Fellow, 1992-1998.

RECENT PUBLICATIONS

Book Chapters

Housing Policy and Planning (with Richard Legates). 1998. in Frank So, ed. *Principles and Practices of Urban Planning*. Washington, D.C.:International City Managers Association.

Development Impacts of Urban Transport (with Robert Cervero). 1995. in David Bannister, ed. *Transport and Urban Development*. London: Chapman and Hall.

GIS Capabilities, Uses, and Organizational Issues. 1993. in Gilbert Castle, ed. *Profiting from a Geographic Information System*. Ft. Collins: GIS World Publications.

Articles

The Second Generation of the California Urban Futures Model (with Ming Zhang). 1998. forthcoming in three issues of *Environment and Planning B*.

Twenty Years of BART: Land Use and Development Impacts (with Robert Cervero). 1996. *Transportation Research*. 31(4):309-333.

The Transportation-Land Use Connection Still Matters. (with Robert Cervero). 1995. *Access* 7 (Fall).

Building Housing for Those Who Can Least Afford It (with E. Toby Morris and Michael Smith Heimer. 1996. *Urban Land* (November).

A Quarter Century of Land Use and Environmental Regulation In California. (with Paul Sedway). 1996. *Urban Land* (November).

Imagining Land Use Futures: Applying the California Urban Futures Model. 1995. *Journal of the American Planning Association* 61:2 (Winner Best Feature Article of 1995).

California Housing Markets in the 1990s. (with Michael Smith-Heimer and Subhrajit Guhathakurta). 1994. *Mortgage Banking* (September).

The California Urban Futures Model: A New Generation of Metropolitan Simulation Model. 1994. *Environment and Planning B* 21:2.

"Does Growth Control Work? A New Assessment." 1992. *Journal of the American Planning Association*. 58:4.

Selected Final Reports

Residential Earthquake Recovery: Improving California's Post-Disaster Rebuilding Policies and Programs. (with Mary Comerio and Catherine Firpo). California Policy Seminar. March 1997.

No Vacancy: How to Increase the Supply and Reduce the Cost of Rental Housing in Silicon Valley. Fisher Center for Real Estate and Urban Economics. June 1996.

Rail Transit Investments, Real Estate Values, and Land Use Change: A Comparative Analysis of Five California Rail Transit Systems. (with Subrajit Guhathakurta, Ming Zhang, and William Huang). California Department of Transportation. June 1995.

Fixing CEQA: Options and Opportunities for Reforming the California Environmental Quality Act. (with Robert Olshansky, William Huang, and Rolf Pendall). California Policy Seminar. August 1995.

California Real Estate Investment Opportunities in the 1990s: Is California Still a Good Place to Invest? U.C. Center for Real Estate and Urban Economics. Fall 1991.

Transit Joint Development: A Summary and Evaluation of the U.S. Experience. (with Peter Hall and Robert Cervero) prepared for the Urban Mass Transit Administration. (U.C. Institute of Urban and Regional Development) Fall 1991.

Responses to High Housing Prices: Economies, Firms, and Households. (with Cynthia Kroll) prepared for the Urban Land Institute. (U.C. Center for Real Estate and Urban Economics) 1990.

Gerrit Knaap Associates**Economics, Land Use Planning, Public Policy Analysis****602 Scovill, Urbana, Illinois 61801****217-344-4916**

June 29, 1998

Theodore A. Russell, Esq.
Sheppard, Mullin, Richter & Hampton LLP
4 Embarcadero Center
San Francisco, CA 94111

Dear Mr. Russell:

As you requested, I have reviewed the Draft Environmental Impact Report (DEIR) and other materials you sent me and formed an opinion regarding the adoption of an Urban Growth Boundary (UGB) for the City of San Jose, California. My opinion is based on nearly 20 years of experience as a professor of economics and urban planning—currently at the University of Illinois at Urbana-Champaign—and as a specialist in urban growth management in general and UGBs in particular. As such, I have published several papers on the effects of UGBs on land and housing markets; I have coauthored a book on the efficacy of Oregon's statewide land use program; I have served as a consultant to Metro, the regional planning agency for the Portland, Oregon, metropolitan area; and as a senior fellow at the American Planning Association, I have helped prepare model statutes on how to establish UGBs as an element of comprehensive land use plans. My opinion is also based on my reading of the following documents:

1. DEIR for the Greenline/Urban Growth Boundary, SCH # 97122060.
2. Final Environmental Impact Report of the San Jose 2020 Comprehensive Plan, SCH # 94023031.
3. San Jose General Plan 1996 Annual Review Report, Ref. # GP96-UGB & GP96-T-3.
4. Memorandum from James R. Derryberry to the San Jose Mayor and City Council, Subject: Supplemental Report: Greenline/Urban Growth Boundary Modification Ordinance and Fee, dated June 10, 1997, pg.s 1-7, with attachments.
5. Memorandum from Gary J. Schoennauer, Director of Planning, to the San Jose Planning Commission, Subject: Major Issues in the 1996 Annual Review of the General Plan, dated October 4, 1996, with attachments.
6. Letter from Joseph E. Petrillo to the Mayor and City Council of San Jose, Regarding: Proposed Long Term Urban Growth Boundary, dated November 12, 1996.

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7. Letter from Joseph E. Petrillo to the Mayor and City Council of San Jose, Regarding: Proposed Long Term Urban Growth Boundary, dated November 12, 1996.
8. Letter from Joseph E. Petrillo to the Planning Commission of San Jose, Regarding: Response to the Memorandum of October 4, 1996-Major Issues in the 1996 Annual Review of the General Plan and Response the General Plan Annual Review Report, Reference No. GP96-UGB & GP96-T-3, dated October 15, 1996.
9. Letter from Joseph E. Petrillo to the Planning Commission of San Jose, Regarding: Comments on the October 4th memorandum Re: Protest of a Negative Declaration for the General Plan Amendment (GP96-UGB), dated October 15, 1996.
10. Letter from Roberta Mundie to Joseph E. Petrillo, dated November 12, 1996.
11. Letter from Roberta Mundie to Joseph E. Petrillo, dated October 15, 1996.
12. Letter from John Landis to Renee Robin and Ted Russell, dated June 16, 1998.

I organize my comments into three sections. First, I describe my understanding of previous steps and positions taken towards the adoption of a UGB for the City of San Jose. Next, I describe the analyses that I believe should be conducted when adopting a UGB. Finally, I explain why, contrary to the statements in the DEIR, I believe the adoption of the San Jose UGB will have significant land use and environmental impacts.

The Adoption of a Urban Growth Boundary for San Jose, California

The salient issues, as I understand them, in the process through which the City of San Jose and the County of Santa Clara, California, propose to adopt a UGB are as follows.

1. In 1994, the City of San Jose adopted its 2020 General Plan for the community which included two urban reserve areas and an Urban Service Area (USA) boundary (Reference #1, page 6).
2. The city proposed to adopt a UGB as an amendment to the general plan, which included all land within the USA and the two urban reserves (3, page 3).
3. The seven goals of the proposed UGB include the following: "Delineate the extent of future urban expansion and reinforce fundamental policies concerning the appropriate location of urban development in furtherance of both the city and county general plans" and "Provide greater long-term certainty regarding future land uses outside the Greenline/Urban Growth Boundary than was provided by the Urban Service Area boundary" (3, page 15).

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4. The proposed UGB is intended to delineate the ultimate limit of San Jose's spatial growth and the requirements for its modification will be onerous (3, page 16).
5. The City of San Jose and Santa Clara County have determined that the UGB will have no land use or environmental impacts of any kind (1, pages vi-xiii).

Appropriate Steps Towards Adopting a UGB

Urban growth boundaries are powerful policy instruments with considerable potential to influence the rate, intensity, and character of urban growth. Urban growth boundaries that are drawn too tight will cause a shortage of urban land supplies, diminished housing affordability, and cause development to leap-frog to exurban or other urban areas. Boundaries that are drawn too loose permit—and in fact encourage—urban sprawl. For these reasons, UGBs must be drawn very carefully, after extensive research on urban growth trends and capacity, and reexamined at regular intervals.

Although UGBs are relatively new policy instruments, standard procedures for their adoption have been established. Model procedures have recently been prepared by the American Planning Association. Although the City of San Jose may have followed similar procedures in adopting the 2020 General Plan, there is no evidence in the documentation I have reviewed—including the DEIR—that it did so for the proposed UGB. Appropriate procedures for adopting a UGB are as follows:

1. Obtain or develop a population and employment forecast for growth in the region and consider alternative ways in which expected growth can be met. Alternatives may include a contiguous, high-density urban area; a contiguous, low-density urban area; or a medium-density urban area with discontinuous urban satellites. For each alternative, identify land use, transportation, housing, urban service, and environmental implications. Seek public input on each alternative and choose the most desirable alternative through a collective decision making process.
2. Conduct a detailed capacity analysis of the areas already committed to urban growth. Based on the experience in Portland, Oregon, Seattle, Washington, and other metropolitan areas, such an analysis should include the following steps:
 - A. Calculate the total number of acres in the area already committed to urban development.
 - B. Subtract the acres of land already developed for urban use to identify gross vacant acres.
 - C. Subtract acres of platted, vacant single-family land.
 - D. Subtract areas that are environmentally constrained—due to steep slopes, flood plains, wetlands, and riparian buffers—to identify buildable lands.

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- E. Subtract land needed for future public facilities such as streets, schools, and parks to determine net buildable acres.
 - F. Calculate residential and employment capacity based on existing zoning or comprehensive plan designations.
 - G. Adjust capacity for potential single family overbuild or underbuild.
 - H. Rezone buildable parcels (output of step D) to reflect the chosen form of future development.
 - I. Adjust the planned development capacities for residential and employment underbuild based on parcel-by-parcel analysis of development constraints due to parcel size, poor access, or partial development.
 - J. Adjust density assumptions to allow for lags in plan and zone change implementation.
 - K. Estimate redevelopment potential of previously developed land and adjust capacity calculation for residential units and employment.
 - L. Estimate infill housing and employment absorption and adjust capacity, based on the estimated rate of infill on the stock of oversized lots.
 - M. Adjust residential and employment capacity for existing lots and development rights on existing land (adds back what was subtracted in step C.)
3. Develop a comprehensive plan, with a UGB and corresponding zoning ordinance(s), that provides a sufficient supply of land to meet projected demand. Unless stipulated by state law, the proposed plan and UGB should include a carefully chosen horizon (typically 10 to 20 years), and date(s) at which the plan will be reevaluated and perhaps revised (typically in five- to seven-year cycles).
4. Adopt and implement an urban growth monitoring system. Important variables that should be monitored include population, employment, and income growth; the supply and absorption rate of vacant land; land and housing prices; residential and employment densities; average commute times and vehicle miles traveled; park and open space development; water and sewer capacity and capacity absorption rates.

Besides assuring that the UGB will contain an adequate supply of land to meet the quantity and types of market demands, following the above procedures will assure that the UGB is fully integrated with other elements of the comprehensive plan, that the comprehensive plan and the UGB strike an appropriate balance between private property rights and collective interests in urban form, and that the plan and the UGB are developed through a collective and open decision making process.

The Adoption of the San Jose UGB as Proposed Will Have Significant Land Use and Environmental Impacts.

Even if the City and County had followed the procedures described above, it is my opinion that the adoption of the UGB will have significant land use and thus environmental impacts. The bases for my opinion are as follows:

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1. Although unstated in the DEIR, altering the pattern of urban development is the primary purpose of adopting a UGB. Explicit goals for the San Jose UGB include furtherance of the implementation of the general plan and the provision of greater certainty regarding future land uses. If these goals are achieved, then the UGB will alter the spatial and dynamic pattern of urban development. This is the point of my 1985 paper in *Land Economics* (61,1: 26-35). In this paper I provide theoretical and empirical support for the proposition that if a UGB increases certainty in the regulatory environment, then the UGB must affect current land values and land allocation. Land values inside the boundaries rise, land values outside the boundary fall, and urban development inside the boundary occurs sooner and at higher densities than would otherwise have occurred. Stated simply, if a UGB does not affect the spatial or dynamic pattern of urban development, then there is little reason to adopt a UGB!
2. The adoption of the UGB changes the logic and thus the influence of the spatial elements of the plan. The city's existing General Plan contains a USA boundary which identifies those areas that can be provided urban services without major additions to the stock of infrastructure. The plan also contains urban reserves which represent areas in which the USA is expected to extend. As such, the logic of the plan is based on an incremental approach to urban development where the urban development pattern is shaped by increases in infrastructure capacity. With the adoption of the UGB, the pattern of urban growth is no longer shaped by increases in infrastructure capacity but is shaped in large by the policy-determined horizon and modification procedures of the UGB. Such changes in the policy implications of the boundaries that now constitute the UGB will have influence on the expectations and land use decisions of land owners. Speculative interest in land inside the boundary, for example, will rise, while speculative interest in land outside the boundary will fall. Challenges to the adoption of the UGB by the homebuilders association and by specific land owners is *prima facie* evidence of such effects.
3. The period over which the UGB regulates land use in the San Jose region is different from the period covered by the original 2020 General Plan. Land use plans and regulations have at least two significant dimensions: their substantive content and the period over which they are binding. Clearly, the adoption date of the UGB will be different from the adoption date of the existing General Plan. Further, there is evidence to suggest that development conditions—such as population and employment growth rates—have changed since the adoption of the General Plan. What's more, though the General Plan has a clearly specified horizon, there is considerable ambiguity concerning the horizon for the proposed UGB. On the first page of the 1996 Annual Review Report the UGB is described as delineating “the ultimate limit of urban development *under the San Jose 2020 General Plan*”—which suggests that the location of the UGB will be reexamined and perhaps revised when the plan is revised. Later in the same document, however, the UGB is described as delineating land that should remain “*permanently rural in character*” (p. 14), as the “*ultimate limit to urban development in San Jose*” (p. 16), and as urbanization's “*logical, practical limit*” (p. 13). If indeed the UGB is adopted with intent

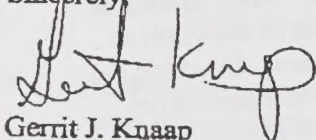
Russell—page 6

to establish a permanent limit to San Jose's spatial growth, the UGB will without question have major current and future land use impacts in San Jose and its neighboring cities. In this case, the UGB must eventually cause land and housing price inflation, increase development densities, and drive development to peripheral areas within the San Jose region. For these reasons, no major city in the United States—to my knowledge—has ever adopted a permanent UGB.

I close by emphasizing that I cannot determine with certainty whether the UGB presently proposed for San Jose is too large or too small in the short term. Such a judgment can only be based on a detailed analysis of the kind outlined above, which is lacking in the DEIR. In my judgement, however, the adoption of San Jose's UGB will cause current and future land use change with potentially significant environmental impacts, and that further analysis and public scrutiny of such impacts is clearly warranted.

Thank you for asking me to comment on this interesting case.

Sincerely,



Gerrit J. Knaap

Associate Professor

Department of Urban and Regional Planning
University of Illinois at Urbana-Champaign

007 287 80 13:36 0321 244 1/11 URBAN PLANNING

CURRICULUM VITAE

June 29, 1998

Gerrit J. Knaap
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CURRENT POSITION

Associate Professor
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University of Illinois
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(217) 333-9575/3890
8/91 to present

CONCURRENT POSITIONS

Research Fellow, Center for Urban Policy and the Environment, School of Public and Environmental Affairs, Indiana University, 8/96 to present.

Faculty Affiliate, Institute for Government and Public Affairs, University of Illinois, 8/90 to present.

Faculty Associate, Lincoln Institute of Land Policy, Cambridge, Massachusetts, 6/90 to present.

PREVIOUS POSITIONS

Senior Research Fellow, American Planning Association, Chicago, Illinois, 6/96 to 6/97.

Assistant Professor, Department of Urban and Regional Planning, University of Illinois, Urbana, Illinois, 8/89 to 8/91.

Assistant Professor, Department of Urban and Public Affairs and Department of Economics, University of Wisconsin-Green Bay, Green Bay, Wisconsin, 8/83 to 8/89.

Visiting Assistant Professor, Department of Economics, University of Wisconsin-Madison, Madison, Wisconsin, 8/85 to 8/86.

Visiting Assistant Professor, Department of Economics, Willamette University, Salem, Oregon, 9/82 to 6/83.

Visiting Instructor, Department of Economics, Willamette University, Salem, Oregon, 9/81 to 6/82.

Visiting Instructor, Department of Economics, Oregon State University, Corvallis, Oregon, 9/80 to 12/80.

Visiting Instructor, Department of Economics, University of Oregon, Eugene, Oregon, 6/80 to 8/80.

EDUCATION

Post-Doctoral Fellow, Health Economics, University of Wisconsin-Madison, 8/85 to 8/86.

M.S., Ph.D., Economics, University of Oregon, 8/82.

B.S., Economics, Willamette University, 6/78.

ACADEMIC AWARDS

Best of ACSP Award for best paper presented at the 1997 meetings of the Association of Collegiate Schools of Planning, Fort Lauderdale, FL, Awarded by the American Planning Association, paper coauthored with Greg Lindsey.

Chester Rapkin Award for Best Paper in Volume 10 of the Journal of Planning Education and Research, 7/91.

Post-Doctoral Fellowship, Center for Health Economics and Law, Univ. of Wisconsin-Madison, 9/85 to 8/86.

Vice Chancellor's Research Award, with W. Niedzwiedz, University of Wisconsin-Green Bay, 6/84.

Graduate Teaching Fellowship, University of Oregon, 1978, 1979, 1981.

Charles and Valona Moser Scholarship, Willamette University, 1977.

Salem Breakfast Club Scholarship, Willamette University, 1975.

PUBLICATIONS

Articles in Journals:

Donaghy, Kieran P., Andrea M. Kelly, and Gerrit J. Knaap, "Optimal Investment in a Tax Increment Financing District," Annals of Regional Science, forthcoming.

Knaap, Gerrit J., Robert Olshansky, and Debra Matier, "Citizen Advisory Groups and Remedial Action Planning in the Great Lakes," Journal of Environmental Planning and Management, 41,3: 337-54.

Knaap, Gerrit J., Lewis Hopkins, and Kieran Donaghy, "Does Planning Matter? A Framework for Examining the Logic and Effects of Land Use Planning," Journal of Planning Education and Research, forthcoming.

Knaap, Gerrit J., 1998, The Determinants of Residential Property Values: Implications for Regional Planning, Journal of Planning Literature, 12,3: 267-82.

Knaap, Gerrit J., Per Johnsen, and Larry Smith, 1997, "Public Support for Remedial Action Planning: Willingness to Pay in Brown County, Wisconsin," Journal of Planning Education and Research, 16: 257-69.

Knaap, Gerrit J., 1996, "Division of Assets following Annexation: An Economic Analysis," Environment and Planning C: Government and Society, 14,2: 179-192.

Kelly, Andrea, Gerrit J. Knaap, Sylvie Temperley, and Alison Simon, 1996, "The Effects of Preprinting on Survey and Item Response Rates", Journal of Leisure Research, 28,2: 122-28.

Knaap, Gerrit J. and Alison Simon, 1994, "Class Conflict in Rural Economic Development: Evidence From Illinois," Journal of the Community Development Society, Special Symposium Issue, 25,1: 130-149.

Johnsen, Per, Gerrit J. Knaap, and Larry Smith, 1992, "Public Perceptions and Attitudes Towards Environmental Rehabilitation of the Lower Green Bay Watershed," Coastal Management Journal, 20: 9-23.

Knaap, Gerrit J. and Steve Juelich, 1992, "The Fiscal Impacts of Detachment: Is It Better to Give Than to Receive" State and Local Government Review, 24,1:28-35.

Knaap, Gerrit J., 1991, "Measuring the Price Effects of Growth Controls: A Comment," Journal of Policy Analysis and Management, 10,3:469-73.

Knaap, Gerrit J., 1990, "State Land Use Planning and Inclusionary Zoning: Evidence from Oregon," Journal of Planning Education and Research, 10,1:39-46.

Knaap, Gerrit J., 1990, "Contradictions of Capitalist Health Care: The Case of Proprietary Hospitals," Nature, Society, and Thought, 2,3:317-331.

Knaap, Gerrit J., 1990, "The Political Economy of Growth Management: Lessons from Oregon," Review of Regional Studies, 19,1:1-7.

Knaap, Gerrit J., 1989, "The Spatial Distribution of Physicians in Urban Areas: New Empirical Evidence," Medical Care, 27,12:1-8.

Knaap, Gerrit J., 1989, "Doctors and Their Workshops: A Spatial Perspective," Regional Science and Urban Economics, 19:143-57.

Knaap, Gerrit J. and Arthur C. Nelson, 1988, "Regional Land Use Controls in Oregon: A Theoretical and Empirical Review," Review of Regional Studies, 18,2:37-46.

Knaap, Gerrit J., 1987, "Social Organization, Profit Cycles, and Statewide Land Use Controls in Oregon: Welcome to Oregon, Enjoy Your Visit," Journal of Applied Behavioral Science, 23,3:371-86.

Nelson, Arthur C. and Gerrit J. Knaap, 1987, "A Theoretical and Empirical Argument for Centralized Regional Sewer Planning," Journal of the American Planning Association, 53,4:479-86.

Knaap, Gerrit J., 1987, "Self-Interest and Voter Support for Oregon's Land Use Controls," Journal of the American Planning Association, 53,1:92-97.

Knaap, Gerrit J., 1985, "The Price Effects of Urban Growth Boundaries in Metropolitan Portland, Oregon," Land Economics, 61,1:26-35.

Books:

Knaap, Gerrit J. and T. John Kim, ed.s., Environmental Program Evaluation: A Primer, Urbana, Illinois: University of Illinois Press, 1997.

Knaap, Gerrit J. and Arthur C. Nelson, The Regulated Landscape: Lessons on State Land Use Planning from Oregon, Cambridge, Massachusetts: The Lincoln Institute for Land Policy, 1992.

Kim, T. John, Gerrit J. Knaap, and Iwan Azis, Spatial Development in Indonesia: Review and Prospects, Aldershot, Great Britain: Avebury Publishers, 1992.

Chapters in Books:

Elson, Andrea M., Gerrit J. Knaap, and Clifford Singer, "Using Tax Increment Financing to Provide Affordable Housing: A Financial Analysis of the King Park TIF District in Urbana, Illinois," in Craig Johnson and Joyce Mann, ed.s., Tax Increment Financing: Uses, Structures, and Impacts, New York, NY: SUNY Press, forthcoming.

Knaap, Gerrit J., "Planning and Politics," S. Adler, C. Abbott, and D. Howe, ed.s, in Planning the Oregon Way: A Twenty Year Review, Corvallis, OR: Oregon State University Press, 1994.

Knaap, Gerrit J. and T. John Kim, "Disparities in Regional Development," T. John Kim, et al ed.s, Spatial Development in Indonesia: Review and Prospects, 1992.

Knaap, Gerrit J. and Chris Lange, Economic Development in Sullivan, in Economic Development in Small Illinois Communities, Norman Walzer, ed., Macomb, Illinois: Institute for Rural Affairs, 1990.

Abstracts:

Knaap, Gerrit J., "The Price Effects of Urban Growth Boundaries in Metropolitan Portland, Oregon, Journal of Economic Literature, March, 1986.

Published Proceedings:

Hanley, Paul F. and Gerrit J. Knaap, The Spatial Reconfiguration of the Portland Metropolitan Area: A Preliminary Assessment and Baseline Analysis, conference on Transportation, Land Use and Air Quality, American Society of Civil Engineers, Portland, Oregon, 5/98.

Knaap, Gerrit J., Air Quality and Urban Planning: Towards an Integrative Approach, Presented at the 5th U.S.-Dutch international symposium on Air Pollution in the 21st Century: Priority Issues and Policy Trends, sponsored by the U.S. EPA and the Netherlands Ministry of Housing, Physical Planning and Environment, Noordwijk, The Netherlands, 4/97.

Phillips, J., A. Mitra, G. Knaap, A. Simon, S. Temperley, and E. Lackner, "The Determinants of Acquiescence to Preprinted Information on Establishment Survey Instruments," Proceedings of the American Statistical Association, 1994.

Knaap, Gerrit J., "Alternative Approaches to Economic Development in Rural Illinois: Evidence from Case-Study Research, in Rural Planning and Development: Visions of the 21st Century, Conference Proceedings, Orlando FL, February 1991.

Bulletins, Reports, and Proceedings:

Ding, Chengri, Gerrit J. Knaap, and Lewis Hopkins, Urban Growth Management Using Urban Growth Boundaries: A Theoretical Analysis, Lincoln Institute Working paper.

Knaap, Gerrit J., Towards Model Statutes on the Economic Development Element of Local Comprehensive Plans, Planning Advisory Service Report, Chicago, IL: American Planning Association, forthcoming.

Knaap, Gerrit J., Towards Model Statutes on the Land Use Element of Local Comprehensive Plans, Planning Advisory Service Report, Chicago, IL: American Planning Association, forthcoming.

Lindsey, Greg, Jamie Palmer, and Gerrit Knaap, The Crooked Creek Greenway Survey: Results and Analysis, Center for Urban Policy and the Environment report #98-C01, Indianapolis, IN, 1998.

Ding, Chengri, Lewis Hopkins, and Gerrit Knaap, "Does Planning Matter? Visual Examination of Urban Development Events, Landlines, 9,1: 4-5, 1997.

Knaap, Gerrit J., Lewis Hopkins, and Arun Pant, Does Planning Matter? Explorations into the Effects of Planned Transportation Infrastructure on Real Estate Sales, Land Values, Building Permits, and Development Sequence, Cambridge, MA: Lincoln Institute of Land Policy Working Paper, 1996, (presented at the Massachusetts Institute of Technology, 11/96).

Contributing Author, Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change, Phase 1 Interim Edition, Chicago, IL: American Planning Association, 1997.

Principal Author, Report of the Technical Advisory Committee on the Draft Environmental Impact Statement and Comprehensive Management Plan for the Indiana Harbor and Ship Canal Maintenance Dredging and Disposal Activities, Chicago, IL, 1996.

Contributing Author, Report of the Technical Advisory Committee on the Draft Environmental Impact Statement for Decommissioning of the Rock Point Nuclear Power Plant, Chicago, IL, 1995.

Principal Author, The Economic and Fiscal Impacts of the Prairie Crossing Development, Gerrit Knaap Associates, Urbana, IL, 1995.

Principal Author, Trends in Environmental Mandates and Requirements at U.S. Army TRADOC Installations, Planning Information Program Report, 1994.

Coauthor with Debra Matier, LAMPs, RAPs, and Great Lakes Rehabilitation, Illinois-Indiana Sea Grant Fact Sheet, Urbana, Illinois, 1994.

Principal Author, The Economic Impact of the Illinois Nursing Homes Industry, Planning Information Program Report, 1993.

Coauthor with T. John Kim, Environmental Program Evaluation: A Scoping Paper, Champaign, Illinois: The Army Environmental Policy Institute, 1992.

Principal Author, Alternative Approaches to Economic Development in Rural Illinois: Evidence from Case-Study Research, in Rural Planning and Development: Visions of the 21st Century, Conference Proceedings, Orlando FL, February 1991.

Principal Author, The Price Effects of an Urban Growth Boundary, Technical Report, The Metropolitan Service District, Portland, Oregon, and the Western Interstate Commission for Higher Education, 1981.

Journal Referee:

American Economic Review, Annals of Regional Science, Coastal Management, Environment and Planning C: Government and Society, Growth and Change, Journal of the American Planning Association, Journal of the Community Development Society, Journal of Environmental Planning and Management, Journal of Human Resources, Journal of Planning Education and Research, Journal of Regional Science, Journal of Urban Affairs, Journal of Urban Economics, Growth and Change, Land Economics, Nature Society and Thought, Papers in Regional Science State and Local Government Review, Urban Affairs Review.

Book Reviews:

Microeconomics, Scott Foresman and Co., Understanding Capitalism, Harper and Row, The Political Economy of Health in Greece, Marxist Educational Press, Market Approaches to Environmental Policy, U. of Illinois Press.

Research Grants and Contracts:

- Co-principal Investigator, with Lewis Hopkins, Do Plans Matter?, Lincoln Institute of Land Policy, 6/97 to 1/99 (\$30,100)
- Principal Investigator, Lewis Hopkins, Co-Principal Investigator, Do Transportation Plans Affect Spatial and Temporal Patterns of Urban Growth, REU supplement, National Science Foundation, 3/97 to present (\$3050).
- Principal Investigator, Lewis Hopkins, Co-Principal Investigator, Do Transportation Plans Affect Spatial and Temporal Patterns of Urban Growth, National Science Foundation, 8/96 to present (\$98,023).
- Co-principal Investigator, with Zorica Nedovic-Budic, Macro-site Land Inventory and GIS Assessment, Illinois Department of Natural Resources, 8/96 to present (\$82,400).
- Principal Investigator, EnviroText Retrieval System, Construction Engineering Research Laboratory, U.S. Army Corps of Engineers, 3/94 to 11/96 (\$653,395).
- Principal Investigator, Environmental Technical Information System, Construction Engineering Research Laboratory, U.S. Army Corps of Engineers, 1/91 to 8/95 (\$1.6 million).
- Co-principal Investigator, with Lewis Hopkins, Do Plans Matter?, Lincoln Institute of Land Policy, 1/94 to 1996 (\$19,000)
- Principal Investigator, Environmental Trends, U.S. Army Corps of Engineers, 2/93 to 6/94 (\$105,082).
- Principal Investigator, Inventory of State Natural Resources Information System, U.S. Army Corps of Engineers, 2/92 to 6/92 (\$27,493).
- Principal Investigator, Illinois Recreation Facility Inventory, Illinois Department of Conservation, 1/92 to 8/92 (\$74,788).
- Co-principal Investigator with Eliza Husband, Downtown Development Workshop, City of Bloomington, 8/91 to 1/92 (\$2,000)
- Principal Investigator, Inventory of State Natural Resources Information System, U.S. Army Corps of Engineers, 8/91 to 2/92 (\$9,597).
- Principal Investigator, Property Taxes, Growth Controls, and Urban Land Values, University of Illinois Research Board, 8/91 to 6/92 (\$6,100).
- Principal Investigator, Institutional Structures for Remedial Action Planning in Great Lakes Areas of Concern, Illinois-Indiana Sea Grant Program, 7/91 to 12/91 (\$2,000).
- Principal Investigator, Illinois Recreation Facility Inventory, Illinois Department of Conservation, 8/91 to 8/92 (\$74,988).
- Co-Principal Investigator, with T. J. Kim, Assessing Policy Alternatives for Army Environmental Planners, 6/91 to 6/92 (\$89,048).
- Co-principal Investigator with Charles Kozoll, Rural Economic Development, Illinois Institute for Rural Affairs, Western Illinois University, 2/90 (\$10,000).

Co-principal Investigator, with A. Chris Nelson, The Regulated Landscape, The Lincoln Institute for Land Policy, 8/89 (\$25,000).

Co-principal Investigator, with H. J. Harris, Public Participation and Governmental Coordination for Remedial Action in the Green Bay Harbor Area, Wisconsin Coastal Management Program, 10/89 to 9/90 (\$62,500).

Co-principal Investigator, with Per Johnsen, "Public Perceptions and Attitudes Towards Water Quality Rehabilitation of the Lower Green Bay Watershed," Wisconsin Coastal Management Program, 10/89 to 10/90 (\$25,000).

Principal Investigator, "Policy Analysis of Wisconsin's Annexation Statutes, Town of Grand Chute, Wisconsin, 6/88 to 9/88 (\$5,980).

Co-Principal Investigator, with J. Murray, "Economic Analysis of Wisconsin's Annexation Statutes, Town of Menasha, Wisconsin, 1/88 to 6/88 (\$5,922).

Principal Investigator, "Green Bay Remedial Action Plan: Public Education and Participation," Wisconsin Department of Natural Resources, 10/88 to 9/89 (\$17,500).

UNIVERSITY INSTRUCTION

Courses Taught:

Applied Economic Concepts
Principles of Microeconomics
Principles of Macroeconomics
Intermediate Macroeconomics
Economic Analysis of Public Policies and Planning (graduate)
Planning and Development Finance
Public Finance and Fiscal Policy
Regional Economics
Health Care Economics and Administration
Health Economics (graduate)
Environmental Economics
Environmental Economics (graduate)
Urban Economics
Urban Economics (graduate)
Urban Development Finance
Sports Economics and Finance
Corporate Finance
Government, Business, and Society
Urban Social Structure and Development
Cities, Regions, and Social Science
Urban Planning Workshop

Administrative Positions:

Coordinator, Masters Degree Program, Department of Urban and Regional Planning, University of Illinois, 1/98 to present.

Director, Planning Information Program, Department of Urban and Regional Planning, University of Illinois, 8/90 to 8/95.

Coordinator, Bachelor's Degree Program, Department of Urban and Regional Planning, University of Illinois, 8/91 to 8/95.

Senator, University of Illinois Faculty Senate, 8/89 to 8/90, and 8/94 to 8/96.

Editor, Planning and Public Policy, 8/89 to 8/94.

Director, Center for Public Affairs, University of Wisconsin-Green Bay, 8/88 to 8/89.

Chair, Department of Economics, University of Wisconsin-Green Bay, 9/86 to 8/89.

Grants, Awards, and Professional Development Related to Teaching:

Incomplete List of Faculty Identified as Excellent by Their Students, University of Illinois, 1989, 1992.

Undergraduate Course Development Award, Urban Social Structure and Development, Undergraduate Instructional Award Program, University of Illinois, 2/90.

Lilly Endowment Post-Doctoral Fellow, University of Wisconsin System, 6/84 to 6/85.

Venture Fund Grant, with Larry Smith, UW-Green Bay, Faculty Development Council, 3/84 to 9/85.

Lilly Foundation Summer Institute, University of Wisconsin-Madison, 8/84.

Lilly Post-Doctoral Fellow, Faculty Development Council, University of Wisconsin-Green Bay, 2/84 to 6/84.

Curriculum Development

Founding Director, Institute for Health Care Studies, Center for Public Affairs, University of Wisconsin-Green Bay, Fall 1988-.

Founding Faculty Advisor, Program in Health Care Policy and Administration, University of Wisconsin-Green Bay, Fall 1988-.

Campus Committees:

Graduate College, Professional Programs Review Committee, 9/95 to 8/96.

Public Administration Proposal Committee, 7/94.

Faculty Benefits Committee, 8/94 to 8/96.

FAA College Committees:

Budget Planning, 1992/93, 1993/94;

Structure of Degree Programs Subcommittee, Chair, 1993/94.

Elections, 92/93, Chair 93/94.

Curriculum, 90/91, 92/93.

Department Committees:

Admissions, Advisory, Executive, Curriculum (chair), Promotion and Tenure (chair), various years.

Public Service:

Member, Urbana Planning Commission, 10/97 to present

Member, Board of Directors, Lake Michigan Federation, Chicago, Illinois, 4/94 to present

Member, Monitoring and Research Advisory Committee for the Green Bay Remedial Action Plan, Wisconsin Department of Natural Resources, 9/88 to 8/91.

Member, Community Programs Board of Advisors, Brown County Mental Health Center, Green Bay, Wisconsin, 9/88 to 8/89.

Member, Public Affairs Committee, Green Bay Chamber of Commerce, Green Bay, Wisconsin, 10/85 to 8/89.

Member, Board of Directors, Community Development Corporation, Green Bay, Wisconsin, 11/84 to 8/89.

Member, Board of Directors, Community Ventures Incorporated, Green Bay, Wisconsin, 11/84 to 8/89.

RECENT PRESENTATIONS, WORKING PAPERS, AND OTHER WORK IN PROGRESS:

Knaap, Gerrit J., Responses to the City Unbound, to be presented at the symposium entitled From Garden Cities to Green Cities and Beyond: Urban Policy for the 21st Century, Cornell University, Ithaca, NY, 9/98. (Invited)

Knaap, Gerrit J., Greg Lindsey, and Zorica Nedovic-Budic, Planning and Managing Urban Greenways, to be presented at the conference entitled, Who Owns America II? University of Wisconsin-Madison, Madison, Wisconsin, 6/98.

Knaap, Gerrit and Lewis Hopkins, "An Inventory Approach to Land Supply Monitoring and its Implications for Database Design, presented at the Conference on Parcel-Based GIS for Land Supply and Capacity Monitoring, University of Washington, Seattle, WA, 5/98 (Invited)

Hanley, Paul, and Gerrit J. Knaap, From New Urbanism to New Urban Reality: A baseline assessment of the transformation of metropolitan Portland, Oregon; Presented at the meetings of the American Society of Civil Engineers, Portland, OR, 5/98.

Regional Growth Management—Myths, Magic, and the Marketplace, conference panelists, Rail-revolution '97, St. Louis, Missouri, 10/97. (Invited)

Knaap, Gerrit J., Growing Smart: Better Laws, Better Analysis, Better Planning, Better Cities, Presented at the meeting of the Board of Directors, Indiana Planning Association, Indianapolis, Indiana, 5/97. (Invited)

Knaap, Gerrit J. and Chengri Ding, Transportation Plans, Urban Development Decisions, and Dynamic Geographic Visualization, presented at the School of Public and Environmental Affairs, Indiana University, Bloomington, Indiana, 5/97. (Invited)

Ding, Chengri, Gerrit J. Knaap, and Lewis Hopkins, Managing Urban Growth for Efficiency in Infrastructure Services: A Dynamic Theory of Growth Control, presented at the meetings of the Western Regional Science Association, Kona, Hawaii, 3/97.

Knaap, Gerrit J., and Alexandra Ortiz, The Effects of Minimum Lot Zoning on Single-Family Lot Size and Land Values, presented at the meetings of the American Real Estate and Urban Economics Association, Washington, DC, 1995, invited resubmission.

Ding, Chengri, Lewis Hopkins, and Gerrit J. Knaap, Design and Management of a Dynamic Geographic Information System to Analyze Urban Development, in progress.

Kim, T. John, and Gerrit Knaap, The Spatial Dispersion of Economic Activities and Development Trends in China: 1952-1985, presented at the meetings of the European Regional Science Association, Rome, Italy, 8/97.

